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SAN FRANCISCO
PORT COMMISSION

REGULAR MEETING
4:00 P.M., TUESDAY, JULY 9, 1996
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SAN FRANCISCO, CALIFORNIA

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AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - June 25, 1996

3. **EXECUTIVE**

   A. Executive Director's Report

   B. Approving resolution in support of an underground parking garage on the southern half of Block 202 to be included as part of the preferred alternative for the Mid-Embarcadero Replacement Project (Resolution No. 96-74).

4. **LEGISLATIVE**

5. **TENANT & MARITIME SERVICES**

   A. Approval of lease with Breda Transportation, Inc. at Transit Shed D, Pier 80 (at foot of Cesar Chavez Blvd.); and approval of co-termination of existing lease with Breda Transportation, Inc. (Resolution No. 96-66)

   B. Approval of leases with Darling International Inc. located on Amador Street at Pier 92 for a cargo sourcing use, and approval of termination of leases with Baker Commodities, Inc. located on Amador Street at Pier 92. (Resolution No. 96-72)

   C. Approval of Second Amendment to Non-Exclusive Management Agreement with Stevedoring Services of America at Pier 94-96, Cargo Way and Jennings Street. (Resolution No. 96-73)

   D. Approval of percentage rental adjustment for Alioto's #8 and Alioto Expo Restaurants at Fisherman's Wharf. (Resolution No. 96-69)

6. **FACILITIES & OPERATIONS**

   A. Authorizing the Executive Director to execute an amendment to a Grant Contract (No. 93-101-229) with the California Department of Boating and Waterways extending the completion date of the Pier 52, Public Boat Ramp, Bait Shop/Cafe and Public Access project. (Resolution No. 96-71)

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7. **PLANNING & DEVELOPMENT**

8. **ADMINISTRATION**

9. **CONSENT CALENDAR**

10. **NEW BUSINESS / PUBLIC COMMENT**

11. **EXECUTIVE SESSION**

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. **ADJOURNMENT**

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

PORT OF SAN FRANCISCO

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MEMORANDUM

July 9, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Resolution in support of an underground parking garage on the southern half of Block 202 to be included as part of the preferred alternative for the Mid-Embarcadero Replacement Project

DIRECTOR'S RECOMMENDATION: Approve the attached resolution.

Background

The Mid-Embarcadero Replacement Project is the central link necessary to complete the Embarcadero Roadway and the Waterfront Transportation Projects, which extend from Fisherman's Wharf to Sixth and King Streets. The Mid-Embarcadero Replacement Project covers the area from Folsom Street to Broadway Street, and is one of the projects managed by the Waterfront Transportation Projects office of the CAO.

At the regular meeting of October 3, 1995, the Port Commission adopted Resolution No. 95-85 which recommended to the Board of Supervisors the selection of the "paired" roadway alternative in front of the Ferry Building. Under this alternative, the southbound and northbound lanes would curve away from the Ferry Building and create a 108 foot wide plaza directly in front of the building. Another alternative was also being considered (the "split" roadway) which called for the northbound lanes to run 45 feet in front of and parallel to the Ferry Building, and the southbound lanes to curve out to create a plaza and open space between the north and south bound lanes.

THIS PRINT COVERS CALENDAR ITEM NO. 3B

Citing the need for safety and ease of pedestrians crossing the roadway, the Board of Supervisors selected the split roadway alternative to be included as the preferred roadway alignment for the project.

The Environmental Impact Statement/Environmental Impact Report (EIS/EIR) has been prepared and is in the process of being finalized for the Mid-Embarcadero Roadway and Terminal Separator Structure Replacement Project. The parking garage is included in the EIS/EIR document and is fully analyzed in the alternatives considered.

Underground Parking Garage

A description of the parking garage, as prepared by the CAO's Waterfront Transportation Projects office, is attached for your review and reference. The key points of the proposal are as follows:

Project Background and Description

- The Embarcadero Roadway Projects will eliminate a total of 967 parking spaces within Port jurisdiction. The Mid-Embarcadero Roadway will eliminate 339 parking spaces in the vicinity of the Ferry Building.

- The proposed site for the garage (the southern half of Assessor's Block 202) is currently owned by the City; the underground rights would be transferred to the Port under this proposal.

- A preliminary layout for the facility indicates that a two story underground garage of approximately 350 spaces could be constructed on the Block 202 site.

- The surface of the garage would be improved and maintained as open space.

Project Justification

- The project is consistent with the Port's Draft Waterfront Land Use Plan, the City's Master Plan (Northeastern Waterfront Plan) and all of BCDC's applicable plans (Bay Plan, Special Area Plan and Total Design Plan).

- The Port generates nearly $700,000 annually from the existing surface parking near the Ferry Building. The parking is needed to financially and functionally support the continued operation and future renovation of the Ferry Building, as well as to provide access to the waterfront.

Project Implementation

- Federal regulations permit "functional replacement" of real property (either land or facilities or both) acquired from a public agency as a result of a highway or highway related project. The Federal Highway Administration (FHWA) has conceptually approved the replacement of the lost parking due to the Mid-Embarcadero Roadway Project.

- Federal regulations also provide that, in the event that adequate funding for the parking garage is not identified and functional replacement of the parking is not pursued, the Port is eligible to be compensated for the appraised market value of the land required for the construction of the roadway project.

Project Cost and Financing

- The current cost estimate for the garage is $23 million, which may be reduced as the design for the garage is refined.

- If the FHWA agrees, between $16 and $20 million in federal Emergency Relief (ER) funds would be available for the project. (A decision on the funding by FHWA is expected in July or August, 1996). The Port would provide the local match of approximately $7 million from a revenue bond or other source.

Status / Next Steps

A presentation to the Board of Supervisor's Housing and Land Use Committee is scheduled for July 18, 1996. A resolution of support for including the parking garage in the preferred alternative will be sought at that time, similar to the attached Port Commission resolution.

The EIS/EIR has been prepared and in the process of being finalized for the Mid-Embarcadero Replacement Project. Once the EIS/EIR is finalized and has been certified by the City Planning Commission, the Mid-Embarcadero Replacement Project will go through an extensive review and approvals process, including consideration for approval by the Port Commission. A tentative schedule for this approvals process for the entire project is attached to this packet, for your information.

Prepared by: Sharon Lee Polledri,
Director of Planning and Development

Po I:\ Agd4.709

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-74

WHEREAS, the Board of Supervisors adopted Resolution 100-96 in January 1996 endorsing the DPT Variant with a Mid-Embarcadero Split Roadway as the Preferred Alternative for the Mid-Embarcadero/ Terminal Separator Structure Replacement Project; and

WHEREAS, the implementation of the Mid-Embarcadero Roadway Replacement Project will result in the loss of 339 off-street parking spaces on The Embarcadero between Folsom and Broadway, and the implementation of the North Embarcadero and South Embarcadero Projects has resulted in the loss of an additional 628 parking spaces for a total loss of 967 parking spaces along The Embarcadero, under the jurisdiction of the Port of San Francisco; and

WHEREAS, the replacement of the parking loss in the Mid-Embarcadero Roadway segment is critical to the current operation of the Ferry Building, to the economic viability of the future renovation and upgrade of the Ferry Building, and to providing access to the waterfront; and

WHEREAS, the southern half of Assessors Block 202 was previously occupied by the Clay/Washington Freeway ramps and is determined to be the most viable location for an underground parking facility due to its proximity to the Ferry Building and ease of access; and

WHEREAS, the Federal Highway Administration has agreed that functional replacement of parking removed by the Embarcadero Roadway Projects is in the public interest, and on a conceptual basis has approved the request for functional replacement parking; and

WHEREAS, the estimated federal share of the cost for the Mid-Embarcadero/Terminal Separator Structure Replacement Project preferred alternative, as endorsed by the Board of Supervisors, and the Port replacement parking garage are within the funding cap of $118 million established by the Federal Highway Administration for the combined Mid-Embarcadero/Terminal Separator Structure Replacement Project; and

WHEREAS, the Port intends to assume responsibility for funding the local match for the parking garage and for the design, construction and maintenance of the parking garage; and

WHEREAS, the Port shall receive all revenues from the operation of any such parking garage, and would be transferred the underground rights to the property on which the garage would located (the southern portion of Assessor's Block 202); and

WHEREAS, the Port will replace, in conjunction with the construction of the garage, the surface open space on the southern half of Block 202 and provide a smooth transition to the existing open space on the northern half of Block 202 under the jurisdiction of the Recreation and Parks Department; and

WHEREAS, the Port will assume maintenance responsibility for the open space located directly above the parking garage; and

WHEREAS, federal law provides that, in the event that adequate funding for the garage is not identified and functional replacement of the parking is not pursued, the Port is eligible to be compensated for the appraised market value of the land required for the construction of the transportation project; and

WHEREAS, the final approval of a Mid-Embarcadero / Terminal Separator Structure Replacement Project will occur after certification by the City Planning Commission of the Final EIS/EIR; now, therefore be it

RESOLVED, that the Port Commission does hereby preliminarily endorse an underground parking garage of approximately 350 parking spaces on the southern half of Block 202 to be included as part of the preferred alternative for the Mid-Embarcadero Replacement Project ; and, be it further

RESOLVED, that Port and Waterfront Transportation Projects staff are requested to diligently pursue full funding of the Mid-Embarcadero Replacement Project, including the underground parking garage.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of July 9, 1996.

_____

Secretary

Port Parking Garage Proposal
Functional Replacement of Parking Removed by the Mid-Embarcadero Project

Project Background

Currently there are 135 on-street parking spaces and 423 off-street parking spaces on The Embarcadero between Folsom Street and Broadway. Approximately 44% of the parking spaces are operated for short-term use and serve tenants and visitors to the Ferry Building. The remaining spaces, 56%, operate as long-term parking, leased to Port and non-Port tenants. The Port currently receives about 5% of its annual revenue stream from these parking spaces.

After construction of the Mid-Embarcadero Replacement Project, there will be 219 on-street parking spaces and no off-street spaces in The Embarcadero roadway area, for a net loss of 339 spaces. This parking reduction would be in addition to the 623 spaces lost along the waterfront as a result of the North and South Embarcadero Roadway Projects, for a total net loss of 962 spaces. The Memorandum of Agreement for the North and South Embarcadero Projects, signed by Departments in 1991, stipulated that the CAO's office and other City Departments pursue construction of a parking garage as part of the Mid-Embarcadero Project. In return, the Port agreed to proceed with construction of the North and South Embarcadero Project.

To replace the parking loss resulting from the implementation of the Mid-Embarcadero project, it is proposed to construct a subsurface parking garage of up 350 spaces on the southern half of Block 202, bounded by Clay Street, Washington Street, Drumm Street, and Justin Herman Plaza. This parking garage would be part of the Mid-Embarcadero Replacement Project and would be operated as a short-term parking facility.

The property proposed to be used for the development of a replacement parking facility, the southern half of Block 202, was previously occupied by the Clay/Washington freeway ramps. These were removed as a result of the demolition of The Embarcadero Freeway. Senate Bill 181 stipulated that these parcels were to be used for transportation purposes or the proceeds from the sale of these parcels to be used for transportation purposes.

Project Description

The parking garage is proposed to be located underground on the southern half of Block 202 which is currently under the jurisdiction of the Department of Real Estate. Ownership was transferred from Caltrans to the City in December 1994 following the removal of the Embarcadero freeway (See Exhibit A).

A preliminary layout for the parking facility indicates a two story underground garage of approximately 320 spaces could be constructed on the southern half of Block 202 (See Exhibit B). Access would be located off of Drumm Street. The intent is to maintain the surface of the parking garage for open space. The garage could be constructed to accept a park or a structure above it should the city decide to allow development on a portion of Block 202 in the future. The following above ground structures are necessary to serve an underground garage: an exhaust vent (estimated height of 10'), an elevator, and a stairwell to bring patrons to the surface (See Exhibit C). The subsurface property rights on the southern half of Block 202 to be occupied by the parking garage would be transferred to the Port of San Francisco.

The northern half of Block 202 is under the jurisdiction of the Recreation and Parks Department. The parking garage would not infringe on the existing park area.

Project Justification

The City's Master Plan (Northeastern Waterfront Plan) and all of BCDC's applicable plans (Bay Plan, Special Area Plan, and Total Design Plan) call for removing surface parking from the water's edge and providing necessary parking on upland locations. The Block 202 location is consistent with these plans. It will not add parking to the waterfront, but rather provide replacement parking in a location more compatible with city and regional policy.

The City's Transit First Policy calls for reliance on transit as a means of moving people into and around the city. The inclusion of a rail facility (the F-Line Historic Street Car) in the median of The Embarcadero will promote this city policy. However, recreational access to the waterfront and viability of the Ferry Building need to be considered as well. As stated above, the project would partially replace the 962 parking spaces lost as a result of the implementation of the surface street improvements along the entire length of The Embarcadero by replacing it with a garage of up to 350 spaces. The City will still experience a net reduction in parking along the waterfront as a result of The Embarcadero projects.

Replacement of these parking spaces will make the Port financially whole, as they presently rely on the revenue stream from this parking. The spaces that will be removed in the Mid-Embarcadero median and in front of the Ferry Building, directly serve Ferry Building tenants. The viability of a renovated Ferry Building, as planned, will depend on an adequate parking supply as suggested in market studies conducted for the Port. In addition, the current C-2 zoning at the Ferry Building requires provision of accessory parking in conjunction with development. Removal of existing parking serving the Ferry Building could therefore limit its redevelopment potential.

Several sites were evaluated in the vicinity of the Ferry Building for the location of the replacement parking garage. Block 202 was determined the most viable location due to its proximity to the Ferry Building and circulation considerations. It is proposed as a

subsurface facility because the property is currently zoned P for Public Use with an Open Space (OS) height limit. Parking is permitted on this parcel if the use is found to be consistent with Master Plan policies.

The mid-day parking occupancy in this area is approximately 86% based on parking studies conducted for the EIR/EIS on the Mid-Embarcadero Roadway Replacement Project.

Project Implementation

Federal regulations (Chapter 1, Section 712.604-606 of 23 CFR) permit "functional replacement" of real property, either lands or facilities or both, acquired from a public agency as a result of a highway or highway related project. The City has been given conceptual approval by the Federal Highway Administration to pursue functional replacement of the parking spaces lost by the Port due to the Mid-Embarcadero project.

The Port would assume responsibility for the design and construction of the parking garage. The CAO will assist the Port in obtaining the necessary project approvals and securing federal Emergency Relief Funds to the extent allowable under the functional replacement provisions. The Port would provide the local match through a revenue bond. In return the Port would retain parking revenues and maintain the surface open space above the parking garage. It is anticipated that the parking structure will provide a revenue stream to assist in the renovation of the Ferry Building after meeting debt service obligations.

The Port will negotiate with and enter into a Memorandum of Understanding with affected city agencies regarding implementation and maintenance of the parking garage.

Cost and Financing Proposal

The current cost estimates for completion of a 322 space parking garage range from approximately $23 to 28 million. If FHWA agrees to participate in functional replacement, it is estimated that $16-20 million in ER funds would be available for design and construction of the project. The remaining $7-8 million would be provided through a Port revenue bond. Proceeds from the sale of parcels that came to the city after the demolition of The Embarcadero Freeway (Broadway and Clay/Washington parcels) are another potential source of local match funds. To date these parcels have not been disposed of by the City.

Outstanding Issues

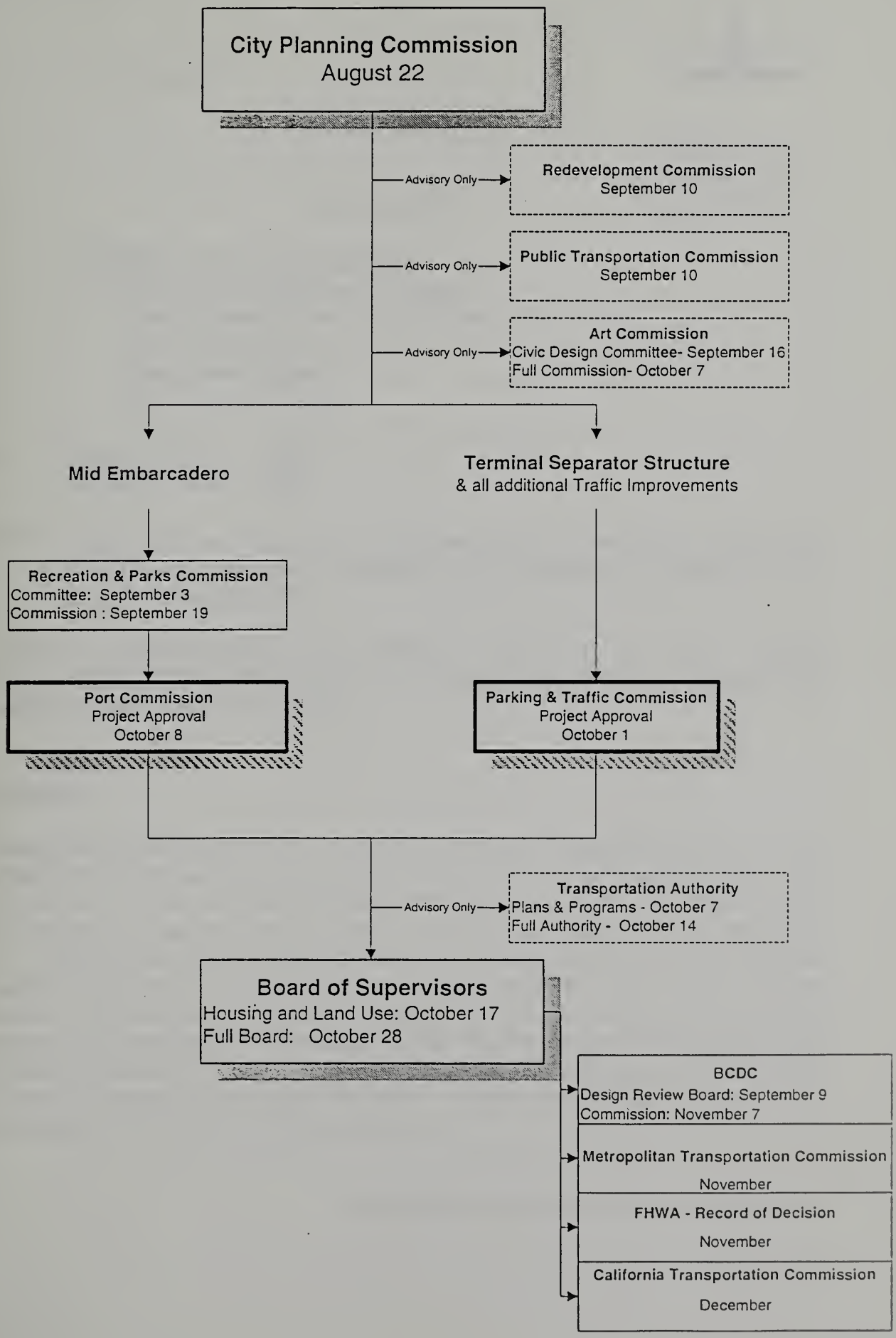
1. Cost estimates for the design and construction of the garage are currently being evaluated by the Department of Public Works and the Port. A preliminary revised cost estimate of $23 million has resulted from this further evaluation.

2. Caltrans and FHWA have not yet agreed to participate financially in functional parking replacement. The option to directly compensate the Port for the loss of use of their land for parking (estimated value of $6 to 10 million) still exists. We anticipate a response from FHWA by mid-July on this issue.
3. The potential for using Clay Street, a private street controlled by the Embarcadero Center Group, as an access drive is being explored. If this access option appears to be more viable from a circulation and open space perspective, it will be addressed as an addendum to the FEIS/FEIR for the Mid-Embarcadero Project.
4. The cost of open space improvements for the entire Block 202 surface have not been included in the cost estimate; only the southern half is included. The cost of the garage would increase if open space improvements to all of Block 202 were required.

w\midemb\prtprk

Mid-Embarcadero/TSS Approval Process

June 14, 1996



PORT OF SAN FRANCISCO

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MEMORANDUM

June 17, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of lease with Breda Transportation, Inc. at Transit Shed D, Pier 80, (at foot of Cesar Chavez Blvd.); and approval of co-termination of existing lease with Breda Transportation, Inc.

DIRECTOR'S RECOMMENDATION: APPROVE NEW LEASE WITH BREDA TRANSPORTATION, INC. AND APPROVE CO-TERMINATION OF EXISTING LEASE WITH BREDA TRANSPORTATION, INC.

BACKGROUND

Breda Transportation, Inc. (Breda) is a U. S. subsidiary of Breda Costruzione Ferroviare. S.A., the manufacturers of the San Francisco Municipal Railroad's (MUNI) new light rail vehicle (LRV). Breda currently manufactures LRV cars in 82,810 square feet located at Transit Shed D at Pier 80 pursuant to a lease approved by the Port Commission on January 24, 1995 (Resolution No. 95-5). Because of new orders from MUNI and a large order from the City of Los Angeles, Breda requires a major expansion of their San Francisco LRV assembly facility. To accommodate this expansion, Breda proposes to terminate its existing lease with the Port (Lease No. L-11996) and enter into a new lease for all of Transit Shed D. The temporary closure of the Pier 80 facility will permit this interim use in Transit Shed D and the generation of additional revenue for the Port of San Francisco without preventing the immediate or future use of the Pier 80 facility for container cargo handling or other maritime purposes.

THIS PRINT COVERS CALENDAR ITEM NO. 5A

PROPOSED LEASE

A new lease (Port Lease No. L-12295) has been negotiated by Port staff and Breda on the following terms and conditions:

1. Premises: 166,097 square feet of space in Transit Shed D (the entire Shed) consisting of two parcels:

   a. Parcel A: 82,810 square feet currently affected by the existing lease with Breda (Lease No. L-11996);

   b. Parcel B: 83,287 square feet of expansion area.

2. Term: Five years, commencing March 1, 1997.

3. Rent:

   a. For the period from the Commencement Date to the second anniversary date: $43,366.00 per month ($.26 per square foot). This represents the $18,380.00 per month rent ($.22 per square foot) for the 82,810 square feet currently affected by Lease No. L-11996 (the Parcel A Premises) and $24,986.00 per month ($.30 per square foot) for the 83,287 square foot expansion area (Parcel B Premises).

   b. For the period from the second anniversary date to the expiration of the Term: $46,520.00 per month ($.28 per square foot).

   c. The rent during any holdover tenancy would be $54,000.00 per month ($.325 per square foot).

   The Port Commission approved minimum rental rate parameter for open shed space over 10,000 square feet in the Southern Waterfront is $.30 per square foot. Breda has installed $805,369.00 in tenant improvements in the space currently occupied in Shed D of which approximately 40%, or $320,000.00, is of direct benefit to the Port. As a part of the new lease, Breda proposes to expend an additional $800,000.00 in capital improvements without reimbursements or rent credits. Given this level of investment and the large space affected, Port staff believes that the proposed rental rates are warranted.

4. Termination rights:

   a. Port's Right to Terminate: The Port may terminate the lease at any time upon 12 months prior notice in order to facilitate a Port program or project.

b. Tenant's Right to Terminate: Prior to the second anniversary date (March 1, 1999), the Breda may elect from the following:

(1) Terminate the lease for the entire 166,097 square feet of Shed D;

(2) Continue the lease only as to the 82,810 square feet of the Parcel A Premises at the rent set forth below; or

(3) Continue the lease only as to the 83,287 square feet of the Parcel B Premises at the rent set forth below.

Should Breda on the Second Anniversary Date elect only to lease the Parcel A Premises, the rent for that portion of the premises would be $20,700.00 per month ($.25 per square foot), adjusted annually thereafter by the Consumer Price Index.

Should Breda on the Second Anniversary Date elect to lease only the Parcel B Premises, the rent would be $25,820.00 per month ($.31 per square foot), adjusted annually thereafter by the CPI.

Summary:

The nature of the proposed use, the creation of over 80 new mass transit vehicle LRV assembly jobs, the proposed rental structure, and the anticipated capital improvement to the Pier 80 Shed D facility represent a significant benefit to the Port, and the City and County of San Francisco. Due to the location of Shed D, this lease should not interfere with the future use of Pier 80 as a container cargo terminal. Nevertheless, the lease can be terminated by the Port with 12 months prior notice if Shed D does need to be incorporated into a future cargo terminal operation.

Prepared by: Kirk W. Bennett, Acting Director Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-66

WHEREAS, The City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, Under the City Charter, leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, Breda Transportation, Inc. has proposed to expand its mass transit vehicle assembly facility at Transit Shed D, at Pier 80; and

WHEREAS, Staff has negotiated all the terms and conditions of a proposed lease with Breda Transportation, Inc. on the terms and conditions outlined in the Memorandum to the Port Commission for Agenda Item 5A for the Port Commission meeting of July 9, 1996; now therefore, be it

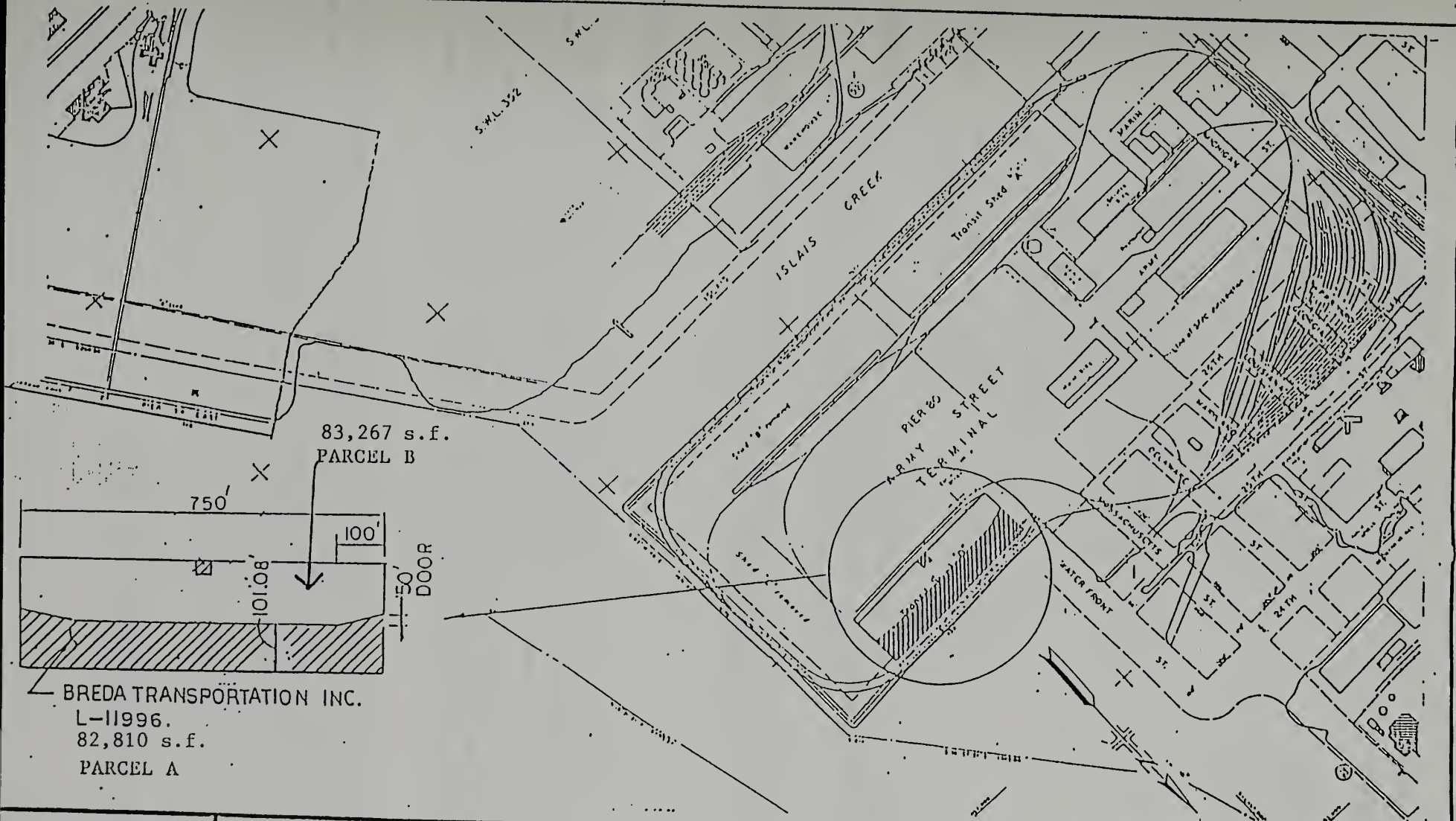
RESOLVED, that the San Francisco Port Commission hereby approves entering into Lease No. L-12295 between the Port and Breda Transportation, Inc. on the terms and conditions outlined in the Memorandum to the Port Commission for Agenda Item 5A for their July 9, 1996 meeting, and authorizes the Executive Director of the Port, or his designee, to execute the same on behalf of the Port, in such form as is approved by the City Attorney; and be it further

RESOLVED, that the San Francisco Port Commission hereby approves the Co-Termination of Existing Lease No. L-11996 between the Port and Breda Transportation, Inc.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 9, 1996.

_____
Secretary

G:\WP51\AGENDAS\BREDAINC.ND\ibn\June 17, 1996



SCO PORT COMMISSION CHIEF HARBOR ENGINEER	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	BREDA TRANSPORTATION INC.	DESIGNED BY DRAWN BY R.C. CONTRACT NO. DRAWING NO. 1800-0-0000	CHECKED BY DATE 9-16-94 SCALE SHEET NO. OF SHEETS

PORT OF SAN FRANCISCO

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MEMORANDUM

June 28, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of leases with Darling International, Inc. located on Amador Street at Pier 92 for a cargo sourcing use, and approval of termination of leases with Baker Commodities, Inc. located on Amador Street at Pier 92.

DIRECTOR'S RECOMMENDATION: APPROVE LEASES AND LEASE TERMINATIONS AS SET FORTH BELOW.

BACKGROUND

The Port leased 116,438 square feet of land at Seawall Lot 344 ("Parcel A") to Baker Commodities, Inc. ("Baker"), pursuant to Port Lease No. L-6113, dated March 20, 1964. The rent was $1,799.36 per month ($0.02 per sq. ft.), and the 30-year lease term expired March 19, 1994. During the term of this lease, Baker Commodities constructed a bulk liquid storage tank and transfer facility on the leased premises. Following the expiration of this lease, it was replaced by a month-to-month lease (Port Lease No. 12126) with the monthly rent set at $17,893.68 ($0.15 per sq. ft.).

The Port leased an additional 78,408 square feet of land at Seawall Lot 344 ("Parcel B") to Baker, pursuant to Port Lease No. L-6695, dated December 13, 1967. The term of this lease is 60 years, expiring on May 19, 2028; however, either party may terminate this lease in 1998, 2008 and 2018. The current rent is $2,452.72 per month ($0.03 per sq.ft.), with cost of living adjustments every ten years.

In 1968, Baker subleased all of Parcel B and a portion of Parcel A to Darling International, Inc. ("Darling"), which is a competitor in the same business as Baker. Darling constructed a bulk products rendering plant on Parcel B, which Darling operates. Baker retained and continues to operate the bulk liquid storage tanks and transfer station located on a portion of Parcel A. Substantially all of the bulk liquids stored in the tanks and transferred to cargo ships at Pier 92 are produced at Darling's rendering plant on Parcel B.

The improvements on Parcel A became the property of the Port upon the expiration of Port Lease No. L-6113 with Baker. The improvements on Parcel B will become the property of the Port upon the expiration or earlier termination of Port Lease No. L-6695 with Baker.

PROPOSED TRANSACTION

Port staff believes that it is in the Port's best interests to lease all of the rendering plant, storage and transfer facilities to the primary user, Darling, because it will make the operation more efficient and encourage greater cargo exporting from Pier 92. To that end, Port staff proposes the following:

1. Terminate the month-to-month Lease No. 12126 with Baker for Parcel A effective August 31, 1996;

2. Enter into a new lease with Darling for Parcel A commencing on September 1, 1996 and terminating on May 19, 1998 (the "Interim Lease");

3. Terminate the 60-year Lease No. L-6695 with Baker for Parcel B effective May 19, 1998; and

4. Enter into a new 30-year lease with Darling for both Parcels A and B effective May 20, 1998 (the "Final Lease").

Leases have been negotiated by Port staff and Darling with the following terms and conditions:

Interim Lease (Proposed Lease No. L-12239)

1. Premises: 116,438 square feet of land at Seawall Lot 344 (Parcel A).

2. Term: Commencing September 1, 1996 and terminating May 19, 1998.

3. Base Rent: $17,893.68 per month ($0.15 per sq. ft.), adjusted on the anniversary date based on the increase in the Consumer Price Index ("CPI").

4. Special Conditions:

   a. No termination right by Port for a "Port project" (Section 4.2 - deleted).

   b. Rent credit granted for wharfage and dockage fees generated by Darling's activities on the premises; provided, however, the rent credit for any lease year may not exceed one half of the Base Rent for the same lease year.

Final Lease (Proposed Lease No. L-12090)

1. Premises: Parcel A: 116,438 square feet of land at Seawall Lot 344, including the existing bulk liquid storage tanks and transfer facility, plus a 475 foot long by 10 foot wide pipeline easement from the transfer facility to the wharf at Pier 92.

   Parcel B: 78,408 square feet of land, including the existing rendering plant.

2. Term: Thirty years, commencing on May 20, 1998. The lease may commence earlier if Baker agrees to an earlier termination of Lease No. L-6695; however, this will not affect the May 19. 2028 expiration date of the Final Lease.

3. Rent: $25,734.48 per month ($0.13 per sq. ft.)

4. Rent Adjustments:

   a. Annually based on increases in the CPI.

   b. In addition to the annual CPI adjustment, the monthly rent will be increased by $500.00 every five years.

5. Special Conditions:

   a. No termination by Port for "Port project" (Section 4.2 -- deleted).

   b. Rent credits granted for wharfage and dockage fees generated by Darling's activities on the premises; however, the rent credits for any lease year may not exceed one half of the Base Rent for same lease year.

Summary:

The proposed leases will retain a cargo sourcing tenant at increased rents. Port staff believes that the rent credits for wharfage and dockage rent credits will also result in increased liquid bulk carrier cargo vessel calls to the Port. Both of these factors represent significant benefits to the Port.

Prepared by: Kirk W. Bennett, Acting Director, Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 96-72

WHEREAS, The City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, Under the City Charter, leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, Darling International, Inc. has proposed to lease and operate a bulk liquid rendering plant, storage and transfer facility; and

WHEREAS, The retention and consolidation of the liquid bulk rendering plant, storage and transfer facility will enhance cargo handling and cargo vessel visits to the Port of San Francisco; and

WHEREAS, Staff has negotiated all the terms and conditions of proposed leases with Darling International, Inc. on the terms and conditions outlined in Agenda Item 5B for the Port Commission meeting of July 9, 1995; now therefore, be it

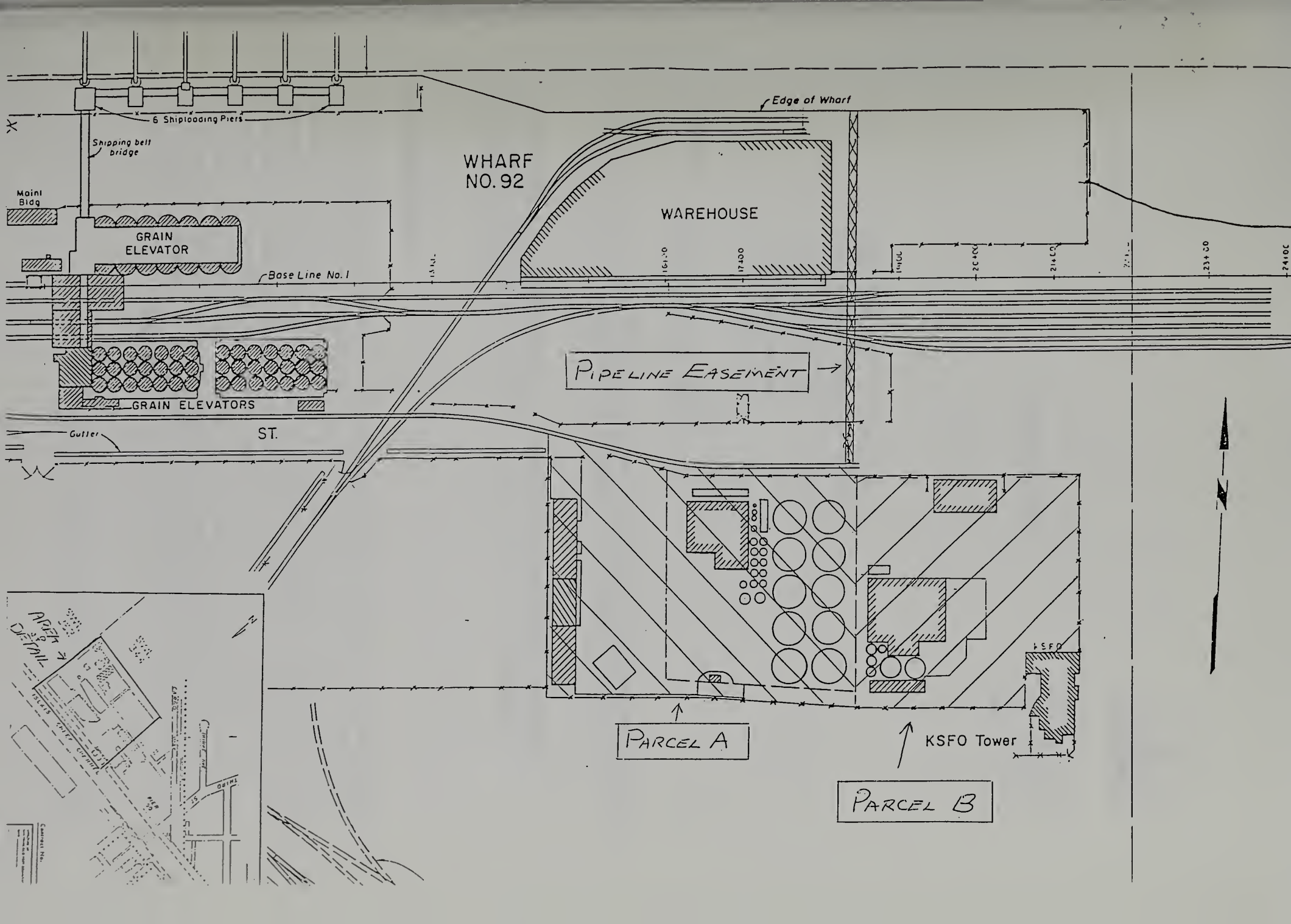
RESOLVED, That the San Francisco Port Commission hereby approves terminating Lease No. L-12126 between the Port and Baker Commodities, Inc. effective as of August 31, 1996 and Lease No. L-6695 between the Port and Baker Commodities, Inc., effective as of May 19, 1998; and be it further

RESOLVED, That the San Francisco Port Commission hereby approves entering into Lease No. 12239 and Lease No. L-12090 between the Port and Darling International, Inc., as described in Agenda Item 5B for the Port Commission meeting on July 9, 1996, and authorizes the Executive Director of the Port, or his designee to execute the same on behalf of the Port and in such form as is approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 9, 1996.

_____
Secretary

G:\WP51\AGENDAS\BAKERCOM.ND\ibn\June 27, 1996


6 Shiploading Piers
Shipping belt bridge
Edge of Wharf
WHARF NO. 92
WAREHOUSE
Main Bldg
GRAIN ELEVATOR
Base Line No. 1
PIPELINE EASEMENT
GRAIN ELEVATORS
ST.
Gutter
PARCEL A
KSFO Tower
PARCEL B

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MEMORANDUM

June 28, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Second Amendment to Non-Exclusive Management Agreement with Stevedoring Services of America at Piers 94-96, Cargo Way and Jennings Street

DIRECTOR'S RECOMMENDATION: APPROVE SECOND AMENDMENT TO NON-EXCLUSIVE MANAGEMENT AGREEMENT WITH STEVEDORING SERVICES OF AMERICA

BACKGROUND

In 1995, Evergreen Line and SERPAC discontinued calls at the South Container Terminal at Piers 94-96, and the remaining calls at the terminal did not support the operating costs incurred by the management contractor, Stevedoring Services of America ("SSA"), who operates the terminal for the Port under a management agreement. The current five-year Non-Exclusive Management Agreement with SSA, dated August 25, 1993 ("Management Agreement"), commenced November 1, 1993 and expires October 31, 1998, unless terminated earlier by either party giving ninety (90) days' prior written notice. In May 1995, the Port Commission agreed to pay SSA an interim management fee of up to $587,000 to cover SSA's losses during the 1995-1996 Fiscal Year. The actual fee for the 1995-1996 Fiscal Year is expected to equal the full $587,000.

THIS PRINT COVERS CALENDAR ITEM NO. 5C

In order to retain the balance of the existing cargo business and to attract new cargo business to the South Container Terminal, Port staff believes that the terminal must be kept open and operating on a full-time basis, which will require the approval of another interim management fee for the 1996-1997 Fiscal Year (July 1, 1996 to June 30, 1997). It is estimated that SSA could lose up to $715,000 from operating the terminal during the 1996-1997 Fiscal Year. Port staff expects that, through retaining the remaining business and attracting new business (including project cargo and the addition of a small cargo line), the Port will be able to incur a management fee of less than $715,000.

PROPOSED AMENDMENT

It is proposed to amend the Management Agreement with SSA to allow the Port to continue to substitute an interim management fee for the existing fee, which would provide SSA the necessary funds, in arrears, to cover net operating losses during the 1996-1997 Fiscal Year. These funds will be paid from a combination of revenues generated by keeping the facility operating and, if necessary, any shortfall will be paid from the Port's operating surplus. This Second Amendment to the Management Agreement will contain the following provisions:

1. Management Fee: From July 1, 1996 through June 30, 1997, the Port will reimburse SSA up to a maximum fee of $715,000 for net operating losses, excluding corporate overhead and profit. SSA will provide detailed monthly and year-to-date reports of revenue and expenses. These reports will be reconciled in December, 1996 and in June, 1997, and the Port will disburse funds after the December, 1996 and June, 1997 reports, as necessary. SSA waives any other management fees provided in the Management Agreement during this one-year period.

2. Cancellation: Neither party may cancel the Management Agreement, except for cause, between July 1, 1996 and June 30, 1997.

Prepared by: Kirk Bennett, Acting Director, Tenant and Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-73

WHEREAS, Charter Section B 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under Charter Section B 3.581(g) leases and franchises granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, in the First Amendment to the Non-Exclusive Management Agreement, dated August 25, 1993, the Port and Stevedoring Services of America ("SSA") agreed to keep the facility open through an interim management fee which would cover SSA's costs incurred resulting from decreased business at the facility; and

WHEREAS, the Port desires to continue to keep the facilities at Pier 94-96 open and operating to retain and to expand cargo business; and

WHEREAS, the Port and SSA wish to continue the interim management fee to cover SSA's operating losses during the 1996-1997 Fiscal Year; and

WHEREAS, SSA estimates that it would lose approximately $715,000 during the 1996-1997 Fiscal Year; and

WHEREAS, the Port believes that it can derive the necessary revenue to cover an interim management fee not to exceed $715,000 through the retention of existing business and with the addition of a small line and project cargo; now, therefore, be it

RESOLVED, that the Port Commission hereby approves that a Second Amendment to the Non-Exclusive Management Agreement as described in the Memorandum for Agenda Item 5C for the July 9, 1996 Port Commission meeting and hereby authorizes the Executive Director of the Port to execute the same on behalf of the Port.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 9, 1996.

_____
Secretary

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MEMORANDUM

June 19, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of percentage rental adjustments for Alioto's #8 and Alioto Expo restaurants at Fisherman's Wharf

DIRECTOR'S RECOMMENDATION: APPROVE PERCENTAGE RENTAL ADJUSTMENTS SET FORTH HEREIN.

BACKGROUND

The 66-year leases for Alioto's #8 restaurant (Port Lease No. L-7491, dated May 1, 1970) and for Alioto Expo Restaurant (Port Lease No. L-7495, dated May 1, 1970) (collectively, the "Subject Leases") provide for the payment of percentage rental to the Port, which is subject to review and adjustment every 25 years during the lease term. The first such 25 year anniversary date was May 1, 1995 (the "Effective Date"). Due to ongoing discussions with the tenant for the Subject Leases, Alioto Fish Co. Ltd. ("Tenant"), Port and Tenant agreed to extend the time for setting the adjustment in the rate of percentage rental. Port and Tenant also agreed that the final rental adjustment would be retroactive to the Effective Date.

The Subject Leases set forth the following three categories for percentage rental, with the percentages rates as indicated below:

Alcoholic beverages and all other items sold through the bar	6.5%
Food	5.0%
All Other Uses	6.5%

THIS PRINT COVERS CALENDAR ITEM NO. 5D

The current uses of the leased premises demised in the Subject Leases include restaurant uses, with the majority of the leased premises being utilized for full service restaurant uses. A portion of the premises demised in Lease L-7495 includes parking lot uses. The parking lot on these premises also encumbers premises demised in a separate month-to-month license (Port License No. 9545, dated May 1977), containing approximately 2,241 square feet.

Both of the Subject Leases establish a similar procedure for the review and adjustment of the percentage rental. If the rates of percentage rent for like uses in San Francisco in the vicinity of the leased premises have increased or decreased as of the adjustment date, then Port shall adjust the rates of percentage rent for the Subject Leases accordingly. If Tenant disagrees on the amount of the adjustment, then Tenant has the right to terminate the lease without liability for future rent.

In order to determine the rate of percentage rent for like uses in the vicinity of the leased premises for the Subject Leases, the Port hired a consultant to perform a survey and analysis of the rates of percentage rents charged for like uses in the vicinity of the leased premises. Port staff also had several discussions with Tenant and its consultants, and considered their comments regarding the appropriate adjustment. However, Port staff was unable to reach agreement with Tenant as to the appropriate adjustment in the percentage rental.

Port staff has concluded that the current rates for percentage rent in the vicinity of the leased premises for the Subject Leases are: seven percent (7.0%) for food and alcoholic beverages sold at restaurants providing full table service; nine percent (9.0%) for retail sales; and sixty-six percent (66.0%), after parking taxes, for parking lots. However, the Subject Leases obligate Tenant to maintain the substructure and exterior of its properties, which is normally the obligation of the landlord. A portion of Tenant's leased premises are located over water, and these maintenance obligations therefore include the seawall and pilings, which are significant obligations. Port staff concluded that the percentage rental rates for the Subject Leases should be lower than the rates in the vicinity of the leased premises because of these maintenance obligations. In addition, Port staff concluded that the parking lot on the leased premises is much smaller than other parking lots in the vicinity, and it is therefore much more inefficient to operate, with operating expenses absorbing a greater portion of the gross receipts.

STAFF RECOMMENDATION

Based upon the independent survey and analysis obtained from Port's consultant, the input provided by Tenant and its consultants, and Port's staff own consideration and review of the data available to it, Port staff recommends that the rates of percentage rent for the Subject Leases be adjusted as indicated below:

Lease L-7491 - Alioto's #8 - Rates for percentage rents shall be adjusted, as of the Effective Date, as follows:

Alcoholic beverages and all other items sold through the bar - 6.5%

Food - 6.5%

All Other Uses - 8.5%

Lease L-7495 - Alioto Expo - Rates for percentage rents shall be adjusted, as of the Effective Date, as follows:

Alcoholic beverages and all other items sold through the bar - 6.5%

Food - 6.5%

All Other Uses - 35.0% (after the parking tax has been deducted)

In addition, the rate of percentage rent for parking under Port License No. 9545 shall be 35.0%.

Prepared by: Frederick D. White, Director Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-69

WHEREAS, The City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under the City Charter, leases granted or made by the Port Commission shall be administered exclusively by the operating forces to the Port Commission; and

WHEREAS, Port Lease Nos. L-7491 and L-7495, with Alioto Fish Co. Ltd. as tenant ("Subject Leases"), provide for adjustment in the percentage rents based on the determination that percentage rents for like uses in San Francisco in the vicinity of the leased premises have increased or decreased as of the date of the determination; and

WHEREAS, Port License No. 9545 is month-to-month; now therefore, be it

RESOLVED, that the San Francisco Port Commission determines that the rates of percentage rent for the uses of the Subject Leases in the vicinity of the lease premises demised in the Subject Leases have increased to the rates indicated in the Memorandum regarding Agenda Item 5D for the July 9, 1996 Port Commission Meeting ("Memorandum"); and be it further

RESOLVED, that the percentage rents for the Subject Leases and Port License No. 9545 shall be adjusted as indicated in the Memorandum; and be it further

RESOLVED, that the Executive Director or his designee is hereby authorized to execute all such appropriate documentation as needed to implement this Resolution.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 9, 1996.

_____
Secretary

I:\WP51\ALIOTO5A.KB\ibn\June 17, 1996

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
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July 9, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey DB
Executive Director

SUBJECT: Authorizing Executive Director to execute an amendment to a Grant Contract (No. 93-101-229) with the California Department of Boating and Waterways extending the completion date of the Pier 52, Public Boat Ramp, Bait Shop/Cafe and Public Access project.

DIRECTOR'S RECOMMENDATION: Authorize Executive Director to Execute Amendment

The Port Commission previously accepted responsibility for managing a grant from the Department of Boating and Waterways for the repair of the existing public boat launch at Pier 52 (Resolution No. 95-7). In that same resolution, the Commission authorized staff to proceed with the hiring an outside consultant to prepare plans and specifications for a series of improvements to the Pier 52 area that would complement the activities of the boat ramp as well as the boating clubs on either side of the project.

Port Staff has been working its consultant, the Arcus Design Team and the Pier 52 Advisory Group to develop a design for the Pier 52 project site. A conceptual design has been completed and will be presented to the Port Commission at its second meeting in July. With the Commission's concurrence, construction drawings will then be developed by Arcus, and a construction bid package prepared for advertisement in September or October 1996. Construction is anticipated to begin on the site in January 1997 and be completed by May, 1997.

The original grant contract from Cal Boating expired on June 30, 1996. The Cal Boating Commission at its May meeting authorized staff to extend the grant agreement until May 1, 1998. It is recommended that The Port Commission authorize the Executive Director to execute the proposed amendment to extend the completion date of the contract.

Prepared by: Cliff Jarrard, Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 6A

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-71

WHEREAS, the Port Commission formally accepted responsibility from the San Francisco Recreation and Park Department for managing a grant from the California Department of Boating and Waterways for improvements at Pier 52; and

WHEREAS, the grant contract with Cal Boating expired on June 30, 1996; and

WHEREAS, both Cal Boating and the Port of San Francisco wish to complete the grant project as well as a series of further improvements to Pier 52; now, therefore, be it

RESOLVED, that the Port Commission hereby authorizes the Executive Director to execute an amendment to Grant Contract No. 93-101-229 to extend the completion date until May 1, 1998.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 9, 1996.

_____
Secretary

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CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE MEETING
JULY 9, 1996

DOCUMENTS DEPT.

AUG 19 1996

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1. **ROLL CALL**

The meeting was called to order by Commission President Michael Hardeman at 4:05 p.m. The following Commissioners were present: Michael Hardeman, Frankie Lee, Preston Cook and Denise McCarthy. Commissioner James Herman arrived at 4:10 p.m.

2. **APPROVAL OF MINUTES** - June 25, 1996

Commissioner Lee noted that on Item 3D, Commissioner Denise McCarthy's name was misspelled.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

3. **EXECUTIVE**

A. Executive Director's Report

1) The waterfront extravaganza on July 4 was extremely successful. Notable this year was that the fireworks extravaganza wrapped around the northern waterfront to the Ferry Building. Approximately 250,000 people were in attendance.

2) Cliff Jarrard and other staff members met with representatives of the SAFER group, who appeared at the last meeting. They've raised several issues such as repairing the benches and railings at the ferry plaza; staff has agreed to institute a work order to fix them. With regard to the concrete surface, there is a contract in place which should correct most of the problems.

3) Last week, Catellus served notice that they will rescind their license agreement with the Port. The Port has a land transfer agreement with Catellus Corporation and subsidiary to that is a license agreement which was to provide for a wetlands that Catellus was to develop as part of their development agreement with the City. Since the development agreement has fallen through, they see no reason to continue with the license agreement. The Port will lose about $1 million in rent. Staff has indicated to Catellus that the land transfer agreement is still in place and has suggested further discussion. There are land parcels opposite Pier 50 owned by the Port and Catellus and, perhaps, if the two entities join forces, a third party can be persuaded to develop the area. Mr. Bouey indicted that staff will continue

its conversation with Catellus.

Commissioner Lee commented that the fireworks extravaganza was well organized; people were orderly. Commissioner Hardeman concurred with Commissioner Lee and added that security was evident everywhere.

B. Approving resolution in support of an underground parking garage on the southern half of Block 202 to be included as part of the preferred alternative for the Mid-Embarcadero Replacement Project (Resolution No. 96-74).

The entire Embarcadero roadway project, which the Port supported wholeheartedly, has resulted in the Port losing almost 1,000 parking spaces and a million dollars of annual rent. Included in this number are 340 parking spaces that will be replaced by the Mid-Embarcadero roadway project. In trying to achieve several objectives, one of which is to replenish those lost monies, but more importantly to make the Ferry Building project a reality, staff recommends to the Commission the endorsement of the underground garage. He mentioned that Rebecca Kohlstrand is in attendance to answer questions the Commission may have. Mr. Bouey also added that it's the Port's position that the garage should be underground and above it should be open space.

Commissioner Cook stated that he supports this item for all the reasons mentioned in the package as well as those enumerated by the Executive Director. He feels that lack of a garage would be detrimental to this project and he enthusiastically supports a parking facility across the street. Commissioner Lee echoed Commissioner Cook's comments.

Norman Rolfe, San Francisco Tomorrow, indicated that providing more parking draws more autos, more traffic congestion, more air pollution and affects other parts of the City. He pointed out that there is plenty of parking available in the area. He was surprised to learn that there will be a loss of 1,000 parking spaces, contrary to Mr. Bouey's presentation at the Planning Commission hearing. The economics of this project are questionable. It represents poor planning and poor use of public funds.

Lorita D. Aarons concurred with Mr. Rolfe. With regard to parking, she stated that the Port can find parking on its own land or piers, not on someone else's neighborhood. She stated that there is no need for a fifth parking garage.

Ms. E. Weiss indicated that this is not a wise decision and the garage should not be developed. She believes this is the wrong location for a garage and suggested another location to build a garage. The Port should develop the Port not this parcel of land. Residents are against the development of this area and petitions are in place. She urged the Commission not to pass this resolution.

Eula Walters, representing the Citizens for Open Space, handed the Commission a copy of a letter opposing the construction of the underground garage.

Esther "b" Woeste, representing the Golden Gateway Tenants Association, stated that they would like to keep the parcel as is. She suggested to prove the need of the garage before building it.

Commissioner Lee reiterated that the garage will be built underground and the above ground will be open space. Mr. Bouey indicated that a final decision has not been made but this is in keeping with the Port Commission goals to keep above ground open space. Mr. Bouey corrected the first speaker's comments. The Port is this City's only market-driven business. We have been successful in the last couple of years. We posted a profit last year. We will post another one this year. With regard to the project, Dept. of Parking and Traffic and other agencies are looking at the traffic patterns. The occupancy is quite high. It is prudent that we have a garage given the time and the occupancy.

Commissioner Hardeman commented that he has worked with Mr. Rolfe while he was at PUC. Staff has put a lot of effort on this project. He realizes how expensive it is to building an underground garage.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

4. LEGISLATIVE

5. TENANT & MARITIME SERVICES

A. Approval of lease with Breda Transportation, Inc. at Transit Shed D, Pier 80 (at foot of Cesar Chavez Blvd.); and approval of co-termination of existing lease with Breda Transportation, Inc. (Resolution No. 96-66)

Mr. Bouey stated that this item was continued from the last meeting. Breda proposes to terminate its existing lease with the Port and enter into a new lease for all of Transit Shed D. The term of the lease is five years, commencing March 1, 1997. The rent during any holdover tenancy would be $54,000 per month. He emphasized that this operation will not interfere with the future use of Pier 80 as a container cargo terminal. The lease can be terminated by the Port with 12 months prior notice if Shed D does need to be incorporated into a future cargo terminal operation.

Mr. Edward Gable, representative from the Millwrights Union, appreciated the Commission's earlier decision to table this item. He raised questions on safety and quality of the vehicle's parts. He realized that he's appearing at the Port Commission and not at the other Commission. He was not contesting the lease agreement.

Commissioner Herman stated that the issue was whether the prevailing wage was being adhered to. He understands that there's a meeting with Muni. The questions posted are not related to the Port Commission. Prevailing wage is part of the fair labor standard. This is not a question that the Port Commission has the authority to

evaluate and make a ruling on.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Approval of leases with Darling International Inc. located on Amador Street at Pier 92 for a cargo sourcing use, and approval of termination of leases with Baker Commodities, Inc. located on Amador Street at Pier 92. (Resolution No. 96-72)

Mr. Bouey stated that the Port entered into a lease with Baker Commodities for 60 years for 78,400 sq. ft. at three cents per sq. ft. with a cost of living adjustment every ten years. In 1968, Baker leased the facilities to Darling International.

The proposed transaction is as follows: Parcel A - terminate the month-to-month lease with Baker Commodities and then enter into a new lease for Parcel A, commencing September 1, 1996, terminating on May 19, 1998, as there is a window to terminate the 3-cent lease with Baker on May 19, 1998. After terminating the 60 year lease with Baker for Parcel B, we then want to enter into a new 30-year lease with Darling for both Parcels A and B, which would be effective May 20, 1998. The final transaction will leave Darling International leasing premises both Parcel A and B at approximately 13 cents per sq. ft. They are also committed to the improvements which they have already built. As well, they are a maritime use in that they have approximately two ship calls per month. They also hope to increase that amount. Darling is a national company and they have the ability to move their business elsewhere. The plants that are currently in place would have limited or no other uses. He believes this is in the Port's best interest to retain Darling International and retain this maritime use.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

C. Approval of Second Amendment to Non-Exclusive Management Agreement with Stevedoring Services of America at Pier 94-96, Cargo Way and Jennings Street. (Resolution No. 96-73)

Mr. Bouey stated that in October 1993, Cosco (the Port's largest shipping line) canceled its lease with the Port of San Francisco. In November 1993, one of the stevedoring facilities operating Pier 80 indicated that since the Port had lost critical mass, it would be withdrawing their services. The Port negotiated with those stevedoring services hoping to forge a joint use agreement but was not successful. Metropolitan, in 1994, closed down their operation. In January 1994, Evergreen indicated that when their contract expired, they also would be moving. It is in the Port's interest to remain a cargo facility and to retain a stevedoring operation. Last year, we developed a strategy to compete for non-intermodal cargo, project cargo and breakbulk cargo. Staff feels that if we are to be a player, we have to remain open.

With regard to the attached resolution which provide for a subsidy for up to $715,000, he asked the Commission to amend it to a fee of up to $750,000. SSA notified the Port that they are in negotiation with the Longshoreman's Union and that they believe that their wage package may include an additional $25,000 or more in cost. If we attract other shipping lines to the Port, we would get credit against this number but if we are not able to bring additional businesses over the next year, we would be liable for the entire $750,000.

In response to Commissioner McCarthy's inquiry regarding how many employees are employed, Mr. Bouey replied that there is an accountant, a terminal manager and security personnel (provided by ILWU). As ships come in, additional ILWU union members are brought in to work in the facility.

Commissioner Lee commented that this is a tough decision to make. He's not sure how much longer he can support this type of transaction. Mr. Bouey concurred with Commissioner Lee and added that this needs to be evaluated on a yearly basis. For the moment, however, this is something the Port must do.

Commissioner Cook stated that he had a great deal of difficulty on this issue. As a Commissioner, this is one of the most difficult decisions that he will make. He, however, concluded that he must vote against this issue. By virtue of his vote, it indicates that shipping does not work in the Port of San Francisco. He came to this conclusion through reading, discussions and through the lost of shipping. There hasn't been a profit for a long time. Shipping has been subsidized by the Port for many years. This Commission should not take any blame that shipping was pushed out of San Francisco; there has never been vote to do this. Mr. Bouey has been very creative and innovative in the maritime department. By voting against this issue, he does not, in any way, disrespect the staff as staff has worked very hard and diligently to make this Port work. This subsidy will represent almost half of next year's projected profit. If he felt that there was a strong possibility that there will be increased shipping in the near future, he would probably vote differently. He believes it is unfair to other tenants to continue this subsidy on something that does not work.

Commissioner Herman indicated that subsidies are not a principal that are unique to the maritime industry or to the difficulties of a maritime entity in this Port. A myriad of other things are subsidized in the hope that circumstances or conditions that result from that assistance made the subsidy worthwhile. This Port is a public entity. This is part of a larger proposition of attracting business that had been basic to the Port. The citizens of this community have without exception given full support to the techniques necessary to retain maritime because of its significance to this community. The Congress is now debating a subsidy for the American Maritime Industry in order to preserve the industry. While no one can find great joy in the necessity of this and while the objective is that it be a temporary technique that will hopefully renew maritime, it is the Port's obligation to the community. If the Port does not provide the subsidy, that company will go elsewhere. He can appreciate the reluctance of other Commissioners not to jump into the continuation of a subsidy arrangement but

he's more sympathetic to its need in an effort to try another tactic in attracting cargo that is necessary in order to preserve San Francisco's basic industry.

Commissioner Hardeman commented that if you compare the subsidy with the Municipal Railway, for every dollar that goes into the box, two dollars is subsidized. He acknowledged Wendy Linka's presence and reiterated that the Mayor has given directive to the Port to be pro-maritime.

ACTION: Commissioner Lee moved approval; Commissioner Herman seconded the motion. Four of the Commissioners were in favor; Commissioner Cook cast the dissenting vote. The resolution was adopted.

D. Approval of percentage rental adjustment for Alioto's #8 and Alioto Expo Restaurants at Fisherman's Wharf. (Resolution No. 96-69) **THIS ITEM WAS PUT OVER.**

6. FACILITIES & OPERATIONS

A. Authorizing the Executive Director to execute an amendment to a Grant Contract (No. 93-101-229) with the California Department of Boating and Waterways extending the completion date of the project. (Resolution No. 96-71)

Mr. Bouey stated that a conceptual design is completed for Pier 52 and will be presented at the next meeting. If the Commission concurs with the design, construction drawings will be developed and a construction bid package will be prepared for sometime in Fall 1996. Construction is anticipated to begin in January 1997 and may be completed in May 1997. Accordingly, an extension on our grant from Cal Boating is needed. Cal Boating in its May meeting, authorized its staff to extend the grant agreement to May 1, 1998. Staff is asking for the Commission to authorize the Executive Director to execute the proposed amendment to extend the completion date of the project.

ACTION: Commissioner Lee moved approval; Commissioner Herman seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

7. PLANNING & DEVELOPMENT

8. ADMINISTRATION

9. CONSENT CALENDAR

10. NEW BUSINESS / PUBLIC COMMENT

Mike Thomas, representing SAFER, gave the Commission a report following their July 2 meeting with Roberta Jones and Cliff Jarrard. At the meeting, Mr. Jarrard agreed that within one week, there would be an investigation regarding the cost of the sinks for the ferry plaza. He agreed that the railings will be repaired within one month's time and if

possible, the broken benches removed from the ferry plaza will be replaced within six months. The surface will be completed in November 1996. Within two weeks, signs will be posted identifying where local public restrooms are and within two weeks time, there will be an investigation regarding the feasibility of putting a portable restroom in the ferry plaza. They're glad to find out that there is an available meeting room in the Ferry Building after work hours.

Robert Brown stated that he is concerned about the restroom facility. He believes that the Port should stop depending on the restaurant to provide restrooms and to take the lead in installing restrooms.

Tyler Fosso stated that he is concerned about the broken benches that were removed and was wondering why the Port will not replace them. He urged the Commission to have the benches replaced.

Simon Alejandrino stated that he is concern about the sinks at the ferry plaza. They were told that a week from the meeting they would hear about the feasibility of installing the sinks but have not heard anything yet.

Mr. Bouey recapped his earlier comments that Cliff and Roberta met with the Safer representatives. With regard to issues such as the benches, the railings and the surface, staff is committed to repairing them. With regard to the benches, he does not have a timetable but any benches that have been removed would be replaced. With regard to the community room, the Commission room is rented for a nominal charge because the Port incur additional charges. With regard to the restrooms and the sinks, this would involve plumbing. With regard to Cliff's commitment to the speakers, Mr. Bouey had some concerns about a couple of issues such as the restrooms. If we are going to resolve the issue it is not enough to put up signs for the restrooms that are not available. Staff will certainly give serious thought to the issues raised.

Commissioner Herman indicated that he is impressed with a group of young people who are involved in something extraordinary and advantageous to a large number of people. He, too, is sympathetic to the addition of a portable restroom for the public at large. A bench is something that the Port would be able to put together so that the people who visit the waterfront will have the basic conditions of comfort. He thinks these things are necessary and he was overwhelmed with the pleasure of seeing young people engaged in something healthy and advantageous to anyone who participates in any form in the waterfront. He hopes that staff would find the time to expedite the basic issues. He's aware of the difficulty it would cause but he knows that along the waterfront staff can evaluate the use of restrooms. He asked staff to see what can be done to expedite the accommodations for everyone who comes to the waterfront and get a benefit from it.

Commissioner Lee asked the group to come back to the Commission and apprise them of the status if staff has not done what it promised to do. He also concurred with Commissioner Herman's comments.

Commissioner Cook also concurred with Commissioner Herman's comments. He added

that the group is well organized and determined and requested the group to update the Commission on its progress.

Commissioner Hardeman complimented the group for being good negotiators. He appreciated their taking the time to bring their concerns to the Commission. He also concurred about Commissioner Herman's comments, in particular, about young people volunteering their time for the betterment of the community.

11. EXECUTIVE SESSION

At 5:30 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

At 6:12 p.m., Commissioners Hardeman, Lee, Cook and McCarthy returned from executive session and convened in public session. Legal Counsel Julie Van Nostern announced that Commissioner Herman had to leave.

ACTION: Commissioner Lee moved approval to not disclose any information discussed in the executive session; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 6:15 p.m.

SF
P55
#1
7/23/96
Canceled

DOCUMENTS DEPT.

JUL 18 1996

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PORT OF SAN FRANCISCO

NOTICE OF CANCELLATION

THE REGULAR PORT COMMISSION MEETING SCHEDULED FOR
TUESDAY, JULY 23, 1996 AT 4:00 P.M.
IS HEREBY CANCELLED

♦ • ♦ • ♦ • ♦

THE NEXT REGULAR PORT COMMISSION MEETING
IS SCHEDULED FOR

TUESDAY, AUGUST 13, 1996 at 4:00 p.m.

in the Port Commission Room
Suite 3100, Ferry Building
San Francisco, CA 94111
(415) 274-0406

DISABILITY ACCESS

The Port Commission office is located on the third floor of the Ferry Building, Suite 3100.

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<u>Know Your Rights Under the Sunshine Ordinance</u>

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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SAN FRANCISCO
PORT COMMISSION

REGULAR MEETING
4:00 P.M., TUESDAY, AUGUST 13, 1996
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

AGENDA

DOCUMENTS DEPT.

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1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - July 9, 1996

3. **EXECUTIVE**

   A. Executive Director's Report

4. **LEGISLATIVE**

5. **TENANT & MARITIME SERVICES**

   A. Approval of lease relocating Omar's Cafe in the World Trade Center/Ferry Building. (Resolution No. 96-75)

   B. Approval of Consent to Encumbrance of Leasehold Estate, Agreement and Estoppel, regarding Lease and Supplemental Lease between Port and Gerson Bakar & Associates, for property located on SWL 322 at Front and Vallejo Streets. (Resolution No. 96-76)

   C. Approval of percentage rental adjustment for Alioto's #8 and Alioto Expo Restaurants at Fisherman's Wharf. (Resolution No. 96-69)

6. **FACILITIES & OPERATIONS**

   A. Authorization for the Executive Director to execute a Type 2 Contract Modification to substitute the work on two cranes in place of work on two other cranes for Construction Contract No. 2610, "Pier 68 Shipyard Cranes Improvements." (Resolution No. 96-77)

7. **PLANNING & DEVELOPMENT**

   A. Informational presentation on the conceptual design of the Pier 52 Public Boat Ramp, Bait & Tackle and Eating Facility.

   B. Resolution approving and urging the execution of a Memorandum of Agreement by the Mayor and Clerk of the Board of Supervisors for the transfer from Caltrans to the City of San Francisco of four parcels of property near the intersection of Howard

Street and Steuart Street, approving the acceptance by the Director of Property of such parcels, and authorizing the jurisdictional transfer of such parcels from the City to the Port. (Resolution No. 96-78)

8. ADMINISTRATION

A. Revisions to Approval of Bid and Award of Revenue Bond Reserve Fund Investment Agreement. (Resolution No. 96-54)

9. CONSENT CALENDAR

A. Approval for one Port representative to attend the 1996 Annual American Association of Port Authorities Convention in Vancouver, British Columbia, in accordance with the FY 96-97 budget. (Resolution No. 96-79)

B. Approval of Ground Lease, Attornment and Nondisturbance Agreement between Port, Clip Clop III Partners, Ltd. and tenant of Francisco Bay Office Park on SWLs 315, 316 and 317 at Montgomery and Francisco Streets. (Resolution No. 96-80)

C. Approval for one Port representative to attend meetings of Port representatives and travel industry leaders in Boston regarding domestic cruise itineraries and to participate in the American Association of Travel Agents annual lobbying event in Washington, D.C., in accordance with the FY 96-97 budget. (Resolution No. 96-81)

10. NEW BUSINESS / PUBLIC COMMENT

11. EXECUTIVE SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION MATTERS

1) Excelsior/BAPC v. CCSF
San Francisco Superior Court No. 972-343

2) CCSF v. David Weiss, Pier 32 Market, Inc., et.al.
San Francisco Superior Court No. 969-872

The City Attorney is of the opinion that based on existing facts and circumstances, discussion of existing litigation matters in open session would prejudice the legal position of the Port. An executive session is specifically authorized under California Government Code Section 54956.9(c).

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

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PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

August 5, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of lease relocating Omar's Cafe in the World Trade Center/Ferry Building.

DIRECTOR'S RECOMMENDATION: APPROVE LEASE AS SET FORTH BELOW.

BACKGROUND

Since November 20, 1990, Omar Shafi has operated Omar's Cafe in the first floor of the Ferry Building. The premises consist of a 770 sq. ft. cafe and a separate 347 sq. ft. storage space, totaling 1,117 sq. ft. The current base rent is $1,046.23, or an average of $0.94 per square foot for the entire space (representing approximately $1.10 per square foot for the cafe space, and $0.57 per square foot for the storage space). The lease also provides for percentage rent of 11%, offset by the base rent. Omar Shafi is currently holding over on a month-to-month basis under Port Lease No. 11588, a five-year lease which expired on November 19, 1995.

As a part of Stage II of the Ferry Building Seismic Mitigation Project, shear walls will be constructed in the existing Omar's Cafe premises. This work is expected to commence in late 1996. Omar's Cafe will therefore have to vacate its premises before this work commences, and the existing premises will not be available for this purpose after the seismic work is completed. There is not a suitable relocation site for a cafe in the Ferry Building during or after completion of the seismic project, but an alternative relocation site ("Relocation Premises") has been identified in the World Trade Center, adjacent to the Amtrak Terminal (which is shown on the attached site plan). The Relocation Premise is now only a shell, with all tenant improvements

having been demolished. Substantial improvements will therefore be necessary to relocate Omar's Cafe to the Relocation Premises. In addition, the Port is not able to enter into any long-term lease for the World Trade Center/Ferry Building ("WTC/FB") due to the planned renovation of the WTC/FB.

Because of the substantial improvements required to the Relocation Premises and because of the short term available to build up a new business and amortize the tenant improvements, Port staff determined that it would be impractical to bid this retail opportunity. Port staff further determined that it was in the interest of the Port and the tenants of the WTC/FB to negotiate a lease for Omar's Cafe to relocate to the Relocation Premises, with Omar's Cafe making the investment in the improvements to these premises. This would enable Omar's Cafe to continue providing convenient food and beverage service for the tenants of the WTC/FB and for visitors to the WTC/FB.

PROPOSED LEASE

A new lease (Port Lease No. L-12287) has been negotiated by Port staff and Omar's Cafe on the following terms and conditions:

1. Tenant: Omar Shafi and Becky Shafi, d.b.a. Omar's Cafe.

2. Premises: 1,148 square feet of space located on the first floor of the World Trade Center adjacent to the Amtrak Terminal, as shown on the attached site plan.

3. Term: Three years, commencing on the earlier of the date Omar's Cafe opens for business to the public in the Premises, or January 1, 1997. (Tenant will specifically acknowledge that the tenancy is for only three years, with no representation either explicit or implicit that a term longer than three years is expected or promised. The lease will also contain the standard Port language giving the Port the right to terminate the lease for a Port project upon six months notice.)

4. Base Rent: $1,658.00 per month, with annual cost of living increases. This represents an overall rental rate of $1.44 per square foot. In calculating this rent, recognition was given the fact that the Relocation Premises are unusually narrow and long, being approximately 14 - 15 feet wide and 78 feet deep. The rental was thus calculated for the front 60% of the Premises at $2.00 per square foot and for the rear 40% of the Premises (representing storage space) at $0.60 per square foot.

5. Percentage Rent: 11% of gross receipts, offset by the base rent due.

6. Maintenance and Utilities: Tenant shall be responsible for all maintenance and repairs to the Premises, but Port shall be responsible for monthly electricity charges.

7. Tenant Improvements: Tenant will accept the Premises in their "as is" condition, with Tenant being responsible for making all improvements and alterations to the Premises. Based upon the budget prepared by Tenant's contractor (Commercial & Interior Construction, Inc.), Tenant anticipates spending $146,867.00 on these improvements and alterations. This cost includes demolition, asbestos removal, concrete patching, carpentry, storefront, painting, plumbing, HVAC, and electrical work. It excludes furniture, and trade fixtures and equipment.

8. Rent Credit: Port will grant Tenant rent credits equaling 100% of the base rent as it becomes due for the cost of the improvements described in Item 7 above. Excluding cost of living increases, the base rent for the three year lease term will total $59,688.00, representing approximately $52.00 per square foot, or 40.6% of the projected total improvement and alteration costs. The total amount of rent credits approximates the cost the Port as landlord would incur to make the space rentable.

Prepared by: Kirk W. Bennett, Acting Director Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. 96-75

WHEREAS, Section B3.581 of the City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, Under Section B3.581 of the City Charter, leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, It is impractical for the Port to bid the deli/cafe retail opportunity in the World Trade Center/Ferry Building (WTC/FB) because (1) the Port cannot offer long-term leases in the WTC/FB due to the anticipated renovation of the WTC/FB, (2) the existing deli/cafe, Omar's Cafe, must vacate its existing premises, which it occupies on a month-to-month basis due to Stage II of the Ferry Building Seismic Mitigation Project, (3) the only available relocation space for a deli/cafe is an unimproved space adjacent to the Amtrak Terminal, necessitating substantial tenant improvements, and (4) it would not be feasible for a new operator to build a new business and amortize these substantial improvements over a three-year term.

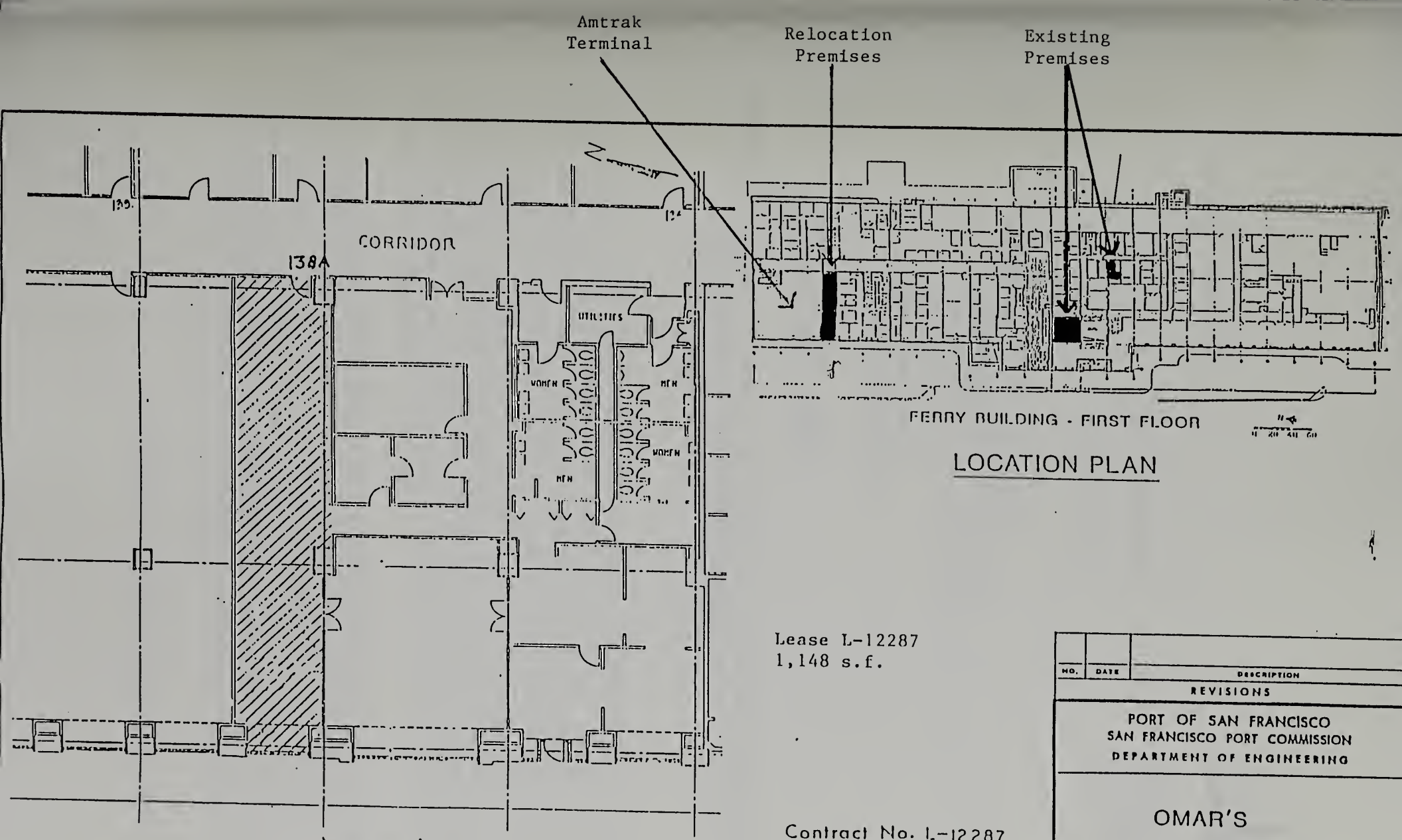
WHEREAS, Omar Shafi and Becky Shafi, the operators of Omar's Cafe, are willing to make a substantial investment in the relocation premises and to relocate Omar's Cafe in return for a three-year lease and partial rent credits for these improvements; now therefore, be it

RESOLVED, That the San Francisco Port Commission hereby approves entering into Lease No. L-12287 between the Port and Omar Shafi and Becky Shafi, d.b.a. Omar's Cafe, on the terms and conditions outlined in the Memorandum to the Port Commission for Agenda Item 5A for their August 13, 1996 meeting, and authorizes the Executive Director of the Port, or his designee, to execute the same on behalf of the Port, in such form as is approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 13, 1996.

_____
Secretary

G:\WP51\AGENDAS\OMARCAFE.KB\ibn\August 6, 1996



FERRY BUILDING
FIRST FLOOR-NORTH

LOCATION PLAN

Lease L-12287
1,148 s.f.

Contract No. L-12287

APPROVED BY
SAN FRANCISCO PORT COMMISSION
DATE _____
CHIEF ENGINEER

NO.	DATE	DESCRIPTION
		REVISIONS

PORT OF SAN FRANCISCO
SAN FRANCISCO PORT COMMISSION
DEPARTMENT OF ENGINEERING

OMAR'S

IN CHARGE OF	CHECKED BY
MADE BY R.C.	DATE 4-29-96
TRACED BY	SCALE
DRAWING NO. 2740	SHEET NO. 138A OF SHEETS

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

August 7, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of Consent to Encumbrance of Leasehold Estate, Agreement and Estoppel, regarding Lease and Supplemental Lease between Port and Gerson Bakar & Associates, for property located at SWL322

G. B. Associates ("Tenant") leases property from the Port, located at SWL 322 as the assignee of a Lease and Supplemental Lease, both dated as of October 23, 1973, between the Port and George L. Burger. Tenant has constructed an office building on the premises, currently occupied in part by CC/ABC-KGO. Tenant is in the process of refinancing its project through its existing lender, Bank of America, with a $4.1 Million loan. As a condition of the refinancing, BofA is requesting the Port to agree the proposed Consent to Encumbrance agreement. The Lease allows the tenant to encumber its leasehold estate, and provides certain mortgagee protections which are consistent with the provisions of the proposed Consent to Encumbrance Agreement.

BofA is requesting the Port to consent to two provisions which deviate from the mortgagee protections offered under the Lease. First, the proposed agreement gives BofA 60 additional days to either cure any non-monetary defaults under the lease or commence foreclosure. The Lease currently allows only 30 additional days. Second, BofA has requested that insurance proceeds and condemnation proceeds be subject to the rights of BofA under the deed of trust in the event of damage or destruction or documentation.

THIS PRINT COVERS CALENDAR ITEM NO. **5B**

BofA has provided the Port with a review copy of the deed of trust. The deed of trust provides that all insurance proceeds be used first to rebuild the premises. Since the Lease does not provide for termination of the Lease in the event of damage or destruction, any insurance proceeds would first go to rebuild the Premises (protecting the Port's interest). Any excess insurance proceeds would be payable to the lender to the extent required to pay down the loan. In the event of a condemnation by eminent domain, BofA would be repaid out of the condemnation proceeds to the extent of its outstanding loan to Tenant.

The form of Agreement represents current standard practice and does not substantially alter the Port's rights under the Lease, except with regard to condemnation proceeds. The Port Commission has approved similar agreements in the past, most recently with the Waterfront Restaurant.

Prepared by: Kirk Bennett, Acting Director of Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-76**

WHEREAS, Charter Section B3.581 empowers the Port Commission with power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, Under Charter Section B3.581(g) leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, G.B. Associates ("Tenant") is the assignee of the Lease and Supplemental Lease, both dated as of October 23, 1973, between the Port and George L. Burger for property located at Seawall Lot 322; and

WHEREAS, Tenant is in the process of refinancing its project through its existing lender, Bank of America, with a $4.1 Million loan, and has requested the Port to agree to the proposed Consent to Encumbrance of Leasehold Estate, Agreement and Estoppel ("Agreement"), a copy of which is attached to the Memorandum of Agenda Item 5B for the Port Commission Meeting on August 13, 1996, and is on file with the Secretary of the Port Commission; now, therefore, be it

RESOLVED, That the Port Commission hereby approves the Consent to Encumbrance of Leasehold Estate, Agreement and Estoppel between the Port, Tenant and Bank of America, substantially in the form on file with the Secretary of the Port Commission, and that the Executive Director is hereby directed to execute the same in such final form as is approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 13, 1996.

_____
Secretary

I:\COMMISSI.CON

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

BANK OF AMERICA NATIONAL
TRUST AND SAVINGS ASSOCIATION
California Real Estate
Specialty Unit #6617
50 California Street, 12th Floor
San Francisco, California 94111
Attn: Myrna Rowland
Loan No.1777-3014651

CONSENT TO ENCUMBRANCE OF LEASEHOLD ESTATE,
AGREEMENT AND ESTOPPEL

THIS CONSENT TO ENCUMBRANCE OF LEASEHOLD ESTATE, AGREEMENT AND ESTOPPEL (the "Agreement"), dated as of June 21, 1996, is made by the SAN FRANCISCO PORT COMMISSION, (the "Landlord") and G. B. ASSOCIATES, LLC, a California limited liability company ("Tenant"), in favor of BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION ("Beneficiary").

This Agreement is made with reference to the following facts:

A. Landlord is the current holder of the lessor's interest and Tenant is the current holder of the lessee's interest under the two ground leases described in Exhibit "A" attached hereto and incorporated herein by this reference (collectively referred to herein as the "Lease" or alternatively as the "Leases"). Copies of the Leases have concurrently herewith been delivered to the Beneficiary together with a certificate certifying such copies to be true and correct. The Leases cover the real property (collectively referred to as the "Property") described in Exhibit "B" attached hereto and made a part hereof.

B. Tenant has applied to Beneficiary for a loan in the principal amount of up to $4,100,000.00 (the "Loan"), for the purpose of refinancing Tenant's leasehold estates under the Leases. The Loan will be secured by, among other things, a Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") dated as of even date herewith executed by Tenant for the benefit of Beneficiary, and will be evidenced and otherwise governed by the "Loan Documents" described in the Deed of Trust. The Deed of Trust shall be recorded concurrently herewith and shall encumber the leasehold estates and all other present and future rights of Tenant under the Leases and in the Property.

C. A condition to Beneficiary's making of the Loan is Landlord's agreement to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree in favor of Beneficiary as follows:

1. Consent to Encumbrance of Leasehold Estate. Landlord hereby consents to the Deed of Trust and the hypothecation thereunder of the leasehold estates and all other present and future rights of Tenant in, to and under each of the Leases and the Property, including without limitation any and all purchase rights or options and rights of first refusal or first offer. Landlord agrees that the Beneficiary shall have all of the rights of a mortgagee of the leasehold under each of the Leases, including but not limited to the rights under Paragraph 19 and Paragraph 14 of each of the Leases. Landlord acknowledges that Beneficiary is entitled to receive written notice and cure defaults of Tenant as more particularly set forth in each of the Leases, provided that for cure of non-monetary defaults of Tenant, Landlord hereby agrees that Beneficiary shall have sixty (60) days in place of the thirty (30) days set forth in Paragraph 19.2 and

19.3 of each of the Leases within which to commence the cure or cause the trustee under the Deed of Trust to commence and thereafter to diligently pursue to completion steps and procedures to cure such default or to foreclose on the leasehold estates covered by the Deed of Trust. Nothing in this Agreement or the Lease shall require the Beneficiary to cure any defaults or be deemed or construed to be an agreement by the Beneficiary to be bound by or perform the covenants and conditions of the lessee under the Lease until Beneficiary becomes the owner of the leasehold estates. Any transferee (including Beneficiary) of the leasehold estates shall be liable to perform the obligations of lessee under the Leases only so long as the transferee holds title to the leaseholds.

2. Insurance. Notwithstanding any provision to the contrary contained in any of the Leases, policies of fire and extended coverage insurance shall be carried by Tenant covering the building or buildings constructed on the leasehold premises with loss payable clause to Beneficiary as the beneficiary under the Deed of Trust, and any disposition of the proceeds thereof in case of loss shall be subject to the rights of the beneficiary as provided in the Deed of Trust.

3. Condemnation, Eminent Domain. Any and all eminent domain or condemnation awards or damages under Paragraph 18 of each of the Leases, shall first be applied in payment of the then outstanding balance, if any, of the Loan made to Tenant by Beneficiary and the balance of the awards and damages, if any, shall be paid to the Landlord and the Tenant, as their interests may appear.

4. Representations and Warranties. Landlord and Tenant each for itself only represent, warrant and certify to Beneficiary that: (a) true and correct copies of each of the Leases and any and all supplements and amendments thereto and modifications thereof, have been delivered to Beneficiary pursuant to a separate certificate; (b) each of the Leases is valid and enforceable in accordance with its terms, is in full force and effect as of the date hereof and have not been modified, amended or terminated; (c) neither Landlord nor Tenant has given or received notice of the occurrence of a default under any of the Leases, and to the best knowledge of each, there are no defaults, breaches, defenses, claims or offsets thereunder or to the enforcement thereof; (d) rent owing under the Leases which is due as of the date of execution hereof has been paid in full, and to the best knowledge of each, Tenant is in compliance with all other obligations of the lessee under the Leases; (e) there are no agreements between Landlord and Tenant affecting the Property other than the Leases; and (f) all buildings and other improvements required to have been constructed under each of the Leases have been fully completed in accordance with the terms thereof.

5. Modification or Termination of the Lease. Any modification or amendment of any of the Leases made without the prior written consent of Beneficiary shall not be binding on Beneficiary or on any purchaser acquiring the Leases from Beneficiary or pursuant to the exercise of Beneficiary's rights under the Deed of Trust. Further, neither of the Leases may be surrendered or terminated without Beneficiary's consent except as provided in Paragraphs 14 and 19 of each of the Leases.

6. Consent to Prior Assignments. Landlord consents to any and all prior assignments of the lessee's interest under each of the Leases by or through which such interest has been transferred to Tenant.

7. Waiver re Bankruptcy. Unless Beneficiary otherwise consents in writing, Landlord and Tenant each hereby waives, and agrees not to assert or otherwise take the benefit of, Section 365 (d)4, or any other applicable provisions, of the United States Bankruptcy Code (11 U.S.C. Section 101 et. seq.), which may cause the termination of any of the Leases, or otherwise render any of the Leases unenforceable in accordance with its terms, whether automatically by operation of law, or otherwise.

8. New Lease.

(a) In the event any or both of the Leases is terminated by reasons of bankruptcy, assignment for benefit of creditors, insolvency or other event beyond the ability of Tenant or Beneficiary to cure or remedy, Landlord shall upon written request of Beneficiary or its designee enter into a new lease or leases as appropriate (each or collectively the "New Lease") with Beneficiary or its designee. The New Lease shall be effective as of the effective date of such termination for the remainder of the term of the terminated Lease, at the same rents and upon the same terms, covenants and conditions as are contained in the terminated Lease, (except to the extent the Lease has been modified by this Agreement) including any options to extend the terms thereof, provided Beneficiary or its designee shall have paid or caused to be paid to Landlord all rents and other sums owing by Tenant under the terminated Lease as of the date of execution of the New Lease.

(b) The New Lease made pursuant to this Section and any renewal lease entered into with Beneficiary or its designee pursuant thereto shall be prior to any mortgage or other lien, charge or encumbrance on Landlord's fee interest in the Property under any of the Leases and the lessee under such New Lease shall have the same right, title and interest in and to the leasehold estate as Tenant had under such Lease.

(c) The lessee under the New Lease shall be liable to perform the obligations imposed on the lessee by the New Lease, provided however, if said lessee is Beneficiary or its designee, it shall have no further liability under the New Lease from and after the date it transfers and assigns its interest in the New Lease.

9. Subordination of Re-entry Right. Landlord hereby waives and subordinates to the Deed of Trust any right, whether arising out of any of the Leases or otherwise, to exercise any re-entry right except subject to the rights of Beneficiary as provided in any of the Leases or as contained herein.

10. No Merger. Notwithstanding anything to the contrary contained in any of the Leases, Landlord and Tenant hereby agree that no merger of interest of Landlord or Tenant shall operate to defeat the lien of Beneficiary upon the leasehold estates.

11. Notice Procedure. Any notices required herein shall be personally delivered or mailed, postage prepaid, certified mail, addressed as follows:

If to Beneficiary:	Bank of America National Trust and Savings Association P.O. Box 3609 Los Angeles, CA 90051-3609
If to Landlord:	Commercial Property Manager San Francisco Port Commission Ferry Building San Francisco, CA 94111
If to Tenant:	201 Filbert Street San Francisco, CA 94133-3298

or to such other address as may be designated by the parties in the manner provided above for giving notice. Notices shall be deemed given upon personal delivery or upon receipt or refusal to accept receipt, as evidenced by the return receipt.

12. Attorney's Fees. If any lawsuit, judicial reference is commenced which arises out of or relates to this Agreement, the prevailing party shall be entitled to recover from each other party such sums as the court may adjudge to

be reasonable attorneys' fees, including the costs for any legal services by in-house counsel, in addition to costs and expenses otherwise allowed by law.

13. Miscellaneous Provisions. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. This Agreement is governed by the laws of the State of California, without regard to the choice of law rules of that State.

14. Integration etc. This Agreement integrates all of the terms and conditions of the parties' agreement regarding the matters contained herein. If there is any conflict between the terms, conditions and provisions of this Agreement and those of any other agreement or instrument, including the Lease, the terms, conditions and provisions of this Agreement shall prevail.

To the extent that this Agreement gives additional rights to Beneficiary, the Leases are hereby amended and modified for the benefit of Benficiary only.

IN WITNESS WHEREOF, Landlord, Tenant and Beneficiary have executed this Agreement as of the date first above written.

Tenant:

G. B. Associates, LLC, a California limited liability company

_____

Gerson Bakar, as Trustee of The Gerson Bakar 1984 Trust, established on September 17, 1984, as last amended and restated in its entirety on March 27, 1995, as further amended, a member

_____

The Burger Family Limited Partnership, a California limited partnership, a member

By: _____
Kenneth J. Burger,
as Co-Trustee of the Burger Family Trust U/T/A dated September 16, 1986, general partner

By: _____
Patricia L. Burger,
as Co-Trustee of the Burger Family Trust U/T/A dated September 16, 1986, general partner

Beneficiary:

BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION

By: _____

Its: _____

Landlord:

San Francisco Port Commission

By: _____

By: _____

n:\MRowland\GBLLC.con

EXHIBIT A

Exhibit A to consent to Encumbrance of Leasehold Estate, Agreement and Estoppel dated as of June 21, 1996

LEASE SEAWALL LOT NO. 322

That certain Seawall Lot No. 322 ("Lease") dated as of October 23, 1973 between San Francisco Port Commission as landlord and George L. Burger as tenant, which Lease or a memorandum of which was recorded in the Official Records of San Francisco County Recorder's Office on August 13, 1974, in Book B-920, Page 191, O.R. All right, title and interest of the tenant under the Lease have been assigned to G. B. Associates, a California limited liability company pursuant to an assignment of Lease dated as of February 23,1996 to be recorded concurrently herewith in the Official Record of San Francisco County Recorder's Office.

SUPPLEMENTAL LEASE

That certain Supplemental Lease (Addition to Basic Lease) Seawall Lot 32 ("Supplemental Lease") dated as of October 23, 1973 between San Francisco Port Commission as landlord and George L. Burger as tenant, which Supplemental Lease or a memorandum of which was recorded in the Official Records of San Francisco County Recorder's Office on August 13, 1974, in Book B-920, Page 197, O.R. and amended by that certain First Amendment to Supplemental Lease dated July 17, 1987. All right, title and interest of the tenant under the Supplemental Lease have been assigned to G. B Associates, a California limited liability company pursuant to an assignment of the lease dated as of February 23, 1996 to be recorded concurrently herewith in the Official Records of San Francisco County Recorder's Office.

EXHIBIT B

Exhibit B to Consent to Encumbrance of Leasehold Estate, Agreement and Estoppel dated as of June 21, 1996.

(type in legal description of real property)

To be attached

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

July 7, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of percentage rental adjustments for Alioto's #8 and Alioto Expo restaurants at Fisherman's Wharf

DIRECTOR'S RECOMMENDATION: APPROVE PERCENTAGE RENTAL ADJUSTMENTS SET FORTH HEREIN.

BACKGROUND

The 66-year leases for Alioto's #8 restaurant (Port Lease No. L-7491, dated May 1, 1970) and for Alioto Expo Restaurant (Port Lease No. L-7495, dated May 1, 1970) (collectively, the "Subject Leases") provide for the payment of percentage rental to the Port, which is subject to review and adjustment every 25 years during the lease term. The first such 25 year anniversary date was May 1, 1995 (the "Effective Date"). Due to ongoing discussions with the tenant for the Subject Leases, Alioto Fish Co. Ltd. ("Tenant"), Port and Tenant agreed to extend the time for setting the adjustment in the rate of percentage rental. Port and Tenant also agreed that the final rental adjustment would be retroactive to the Effective Date.

The Subject Leases set forth the following three categories for percentage rental, with the percentages rates as indicated below:

Alcoholic beverages and all other items sold through the bar	6.5%
Food	5.0%
All Other Uses	6.5%

THIS PRINT COVERS CALENDAR ITEM NO. 5C

The current uses of the leased premises demised in the Subject Leases include restaurant uses, with the majority of the leased premises being utilized for full service restaurant uses. A portion of the premises demised in Lease L-7495 includes parking lot uses. The parking lot on these premises also encumbers premises demised in a separate month-to-month license (Port License No. 9545, dated May 1977), containing approximately 2,241 square feet.

Both of the Subject Leases establish a similar procedure for the review and adjustment of the percentage rental. If the rates of percentage rent for like uses in San Francisco in the vicinity of the leased premises have increased or decreased as of the adjustment date, then Port shall adjust the rates of percentage rent for the Subject Leases accordingly. If Tenant disagrees on the amount of the adjustment, then Tenant has the right to terminate the lease without liability for future rent.

In order to determine the rate of percentage rent for like uses in the vicinity of the leased premises for the Subject Leases, the Port hired a consultant to perform a survey and analysis of the rates of percentage rents charged for like uses in the vicinity of the leased premises. Port staff also had several discussions with Tenant and its consultants, and considered their comments regarding the appropriate adjustment. However, Port staff was unable to reach agreement with Tenant as to the appropriate adjustment in the percentage rental.

Port staff has concluded that the current rates for percentage rent in the vicinity of the leased premises for the Subject Leases are: seven percent (7.0%) for food and alcoholic beverages sold at restaurants providing full table service; nine percent (9.0%) for retail sales; and sixty-six percent (66.0%), after parking taxes, for parking lots. However, the Subject Leases obligate Tenant to maintain the substructure and exterior of its properties, which is normally the obligation of the landlord. A portion of Tenant's leased premises are located over water, and these maintenance obligations therefore include the seawall and pilings, which are significant obligations. Port staff concluded that the percentage rental rates for the Subject Leases should be lower than the rates in the vicinity of the leased premises because of these maintenance obligations. In addition, Port staff concluded that the parking lot on the leased premises is much smaller than other parking lots in the vicinity, and it is therefore much more inefficient to operate, with operating expenses absorbing a greater portion of the gross receipts.

STAFF RECOMMENDATION

Based upon the independent survey and analysis obtained from Port's consultant, the input provided by Tenant and its consultants, and Port's staff own consideration and review of the data available to it, Port staff recommends that the rates of percentage rent for the Subject Leases be adjusted as indicated below:

Lease L-7491 - Alioto's #8 - Rates for percentage rents shall be adjusted, as of the Effective Date, as follows:

Alcoholic beverages and all other items sold through the bar - 6.5%

Food - 6.5%

All Other Uses - 8.5%

Lease L-7495 - Alioto Expo - Rates for percentage rents shall be adjusted, as of the Effective Date, as follows:

Alcoholic beverages and all other items sold through the bar - 6.5%

Food - 6.5%

All Other Uses - 35.0% (after the parking tax has been deducted)

In addition, the rate of percentage rent for parking under Port License No. 9545 shall be 35.0%.

Prepared by: Kirk Bennett
Acting Director Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-69

WHEREAS, The City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under the City Charter, leases granted or made by the Port Commission shall be administered exclusively by the operating forces to the Port Commission; and

WHEREAS, Port Lease Nos. L-7491 and L-7495, with Alioto Fish Co. Ltd. as tenant ("Subject Leases"), provide for adjustment in the percentage rents based on the determination that percentage rents for like uses in San Francisco in the vicinity of the leased premises have increased or decreased as of the date of the determination; and

WHEREAS, Port License No. 9545 is month-to-month; now therefore, be it

RESOLVED, that the San Francisco Port Commission determines that the rates of percentage rent for the uses of the Subject Leases in the vicinity of the lease premises demised in the Subject Leases have increased to the rates indicated in the Memorandum regarding Agenda Item 5C for the August 13, 1996 Port Commission Meeting ("Memorandum"); and be it further

RESOLVED, that the percentage rents for the Subject Leases and Port License No. 9545 shall be adjusted as indicated in the Memorandum; and be it further

RESOLVED, that the Executive Director or his designee is hereby authorized to execute all such appropriate documentation as needed to implement this Resolution.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 13, 1996.

_____
Secretary

I:\WP51\ALIOTO5A.KB\ibn\July 7, 1996

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

August 6, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Pier 68 Shipyard Crane Improvements, Contract No. 2610

DIRECTOR'S RECOMMENDATION: RESOLUTION TO APPROVE A TYPE II MODIFICATION TO CONTRACT NO. 2610, MODIFYING THE WORK SCOPE BY SUBSTITUTING CRANES #33 AND #34 FOR OTHER WORK ITEMS, AND REVISING THE CONTRACT AMOUNT FROM $1,621,260.00 TO $1,725,249.00, AND AUTHORIZE STAFF TO APPROVE UP TO ANOTHER 10% FOR CONTINGENCIES, AND AUTHORIZE EXECUTIVE DIRECTOR TO ACCEPT THE WORK UPON COMPLETION.

On May 28, 1996 (Resolution 96-52), Contract No. 2610 in the amount of $1,621,260.00 was awarded to Rigging International, Inc. (Rigging). The contract was awarded for crane renovation, primarily on cranes #30 and #32. The crane repair work is intended to improve the cranes by extending their useful life, thereby facilitating the tenant's ship repair operations. Subsequently, the shipyard and the Port determined that it was preferable to focus the renovation work on cranes #33 and #34 which serve drydock #2. This is the drydock on which most ship repair work is conducted. This work will be of greater benefit to the tenant's shipyard operations.

Port staff has negotiated a change in the contract scope and cost with Rigging. All of the originally specified work for crane #33 will be performed, with the exception that rebuilt rather than new gantry trucks will be installed. It was determined that rebuilt gantry trucks are more cost effective than new trucks. The warranty on the rebuilt gantry trucks is the same as that for new trucks. The work to be performed on crane #34 consists primarily of removing, rebuilding, and re-installing the gantry trucks, which is the highest priority item of work. The contract cost has increased by $103,989.00 because the work on cranes #33 and #34 is of a more complicated and extensive nature and includes expensive electrical components.

Prepared by: Cliff Jarrard
Acting Facilities and Operations Director

THIS PRINT COVERS CALENDAR ITEM NO. 6A

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-77

WHEREAS, on May 28, 1996 (Resolution 96-52), Contract No. 2610 in the amount of $1,621,260.00 was awarded to Rigging International, Inc. (Rigging); and the contract was awarded for crane renovation, primarily on cranes #30 and #32; and the crane repair work is intended to improve the cranes by extending their useful life, thereby facilitating the tenant's ship repair operations; and

WHEREAS, subsequently, the shipyard and the Port determined that it was preferable to focus the renovation work on cranes #33 and #34 which serve drydock #2 which is the drydock on which most ship repair work is conducted so this work will be of greater benefit to the tenant's shipyard operations; and

WHEREAS, Port staff has negotiated a change in the contract scope and cost with Rigging under which all of the originally specified work for crane #33 will be performed, with the exception that rebuilt rather than new gantry trucks will be installed which are more cost effective than new trucks; and the warranty on the rebuilt gantry trucks is the same as that for new trucks. Wherein, the work to be performed on crane #34 consists primarily of removing, rebuilding, and re-installing the gantry trucks, which is the highest priority item of work. Wherein, the contract cost has increased by $103,989.00 because the work on cranes #33 and #34 is of a more complicated and extensive nature and includes expensive electrical components; therefore be it

RESOLVED, that the San Francisco Port Commission hereby approves a Type II Modification to Contract No. 2610, modifying the work scope by substituting cranes #33 and #34 for other work items, and revising the contract amount from $1,621.260.00 to $1,725,249.00, authorizes staff to approve up to another 10% for contingencies, and authorizes Executive Director to accept the work upon completion.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of AUGUST 13, 1996

_____
Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

August 13, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Informational Presentation on the Conceptual Design of the Pier 52 Public Boat Ramp, Bait Shop and Cafe

DIRECTOR'S RECOMMENDATION: **Informational Presentation Only; no action required.**

Through the Waterfront Plan process, many recreational boaters testified about the lack of opportunities to launch a boat along the San Francisco waterfront. The Pier 52 project involves the repair and enhancement of the only public boat ramp on the 7.5 mile waterfront within Port jurisdiction. The ramp is currently in disrepair and is located along an unappealing, unimproved shoreline adjacent to the future Mission Bay Project. To activate the area and provide for an attractive shoreline that can be enjoyed by boaters and the general public, the Port conceived of adding a small bait and tackle shop and modest eating facility, along with restrooms, outdoor seating and public access areas.

The Port Commission previously accepted responsibility for managing a grant from the Department of Boating and Waterways for the repair of the existing public boat launch at Pier 52 (Resolution No. 95-7). In that same resolution, the Commission authorized staff to proceed with the hiring of an outside consultant to prepare plans and specifications for a series of improvements to the Pier 52 area that would complement the activities of the boat ramp as well as the boating clubs on either side for the project. In November 1995, the Commission awarded Arcus Architecture the contract as the lead consultant for the architectural and engineering services for the project.

As outlined in the Waterfront Plan, the Port convened an Advisory Group, whose purpose is to provide early professional expertise and community input in the conceptualization of Port

projects. Although the Pier 52 project is smaller than the type of mixed-use maritime projects that the Port will be sponsoring when the Waterfront Plan is adopted, Port staff wanted to be able to test the Waterfront Plan implementation process in the Pier 52 project. The Port has been fortunate to be able to tap individuals with demonstrated expertise and experience in recreational boating and operations, restaurant operations and waterfront design.

The Advisory Group met weekly from September 1995 to January 1996 to review background materials prepared by Port staff and to refine the project concept. They met in the spring of 1996 to review alternative schemes developed by the design team. The Advisory Group's input was invaluable to the project development. The Advisory Group recommended that the project should focus on the following objectives:

- Improving Access to the Bay: The emphasis on the projects is on water side improvements that will improve the public's enjoyment of a currently unappealing and underutilized area of waterfront.

- Providing amenities for the Boating Community: Improvements should be included that improves boating access to the Bay and attracts the use of the facility on a regular basis.

- Flexibility in the building and site improvements: The Advisory Group considered possible long range uses of the site and the building, to insure improvements were not placed in areas that would conflict with possible long range additions to the site. For example, the small building was placed closer to the southern end of the site to allow sufficient space for the possible placement of a public hoist at a future date.

The Arcus Design team prepared five alternatives for the site, ranging from a simpler repair scheme to a more elaborate facility providing both a boat ramp and a public hoist. The Advisory Group recommended the alternative that was developed in the conceptual design.

The preferred scheme will provide--

- A new single lane boat ramp centrally placed on the project site, angled to the shoreline, with a vehicular turn-around area out the right of way of Terry Francois Blvd. The ramp will be designed to meet the State of California, Boating and Waterways Design standards for new ramp construction.

- An accessible visiting boat dock, with space for hand launched craft. The visiting boat dock will be located to the new boat ramp providing space for causal tie-ups and immediate access to the Pier 52 facilities.

- A small support structure adjacent to the boating facilities. The support structure will provide physical space for a small cafe and the required support facilities, a bait and tackle sales area, public restrooms, and small indoor eating area. The support structure, as currently designed, will provide series of roll-up doors opening onto a deck area over-looking the boating activities at the ramp and the dock.

- Ample amounts of public access improvements throughout the site. Under the proposed design the public access area will nearly double.

- A 20 space vehicle/trailer parking lot on the west side of Terry A. Francois Blvd. The lot will also provide sufficient area for a boat wash. The Commission should note that a supplemental grant of $198,000 from Cal Boating has been applied for to cover the cost of the parking lot improvements.

Port staff has presented the conceptual design at several public meetings including the Board of Directors and general membership meeting for the Bayview Boat Club and BCDC's Design Review board. The Bayview Boat Club sent letters of support for the project to the DRB and the Port staff (attached). The Port's Design Advisors, Messrs. John Kirken and Michael Smiley, have reviewed the conceptual design.

Upon completion of further refinements to the design, Port staff anticipates a construction bid package to be prepared for advertisement in Fall 1996. Construction is anticipated to start in the beginning of 1997 and completed for the Summer 1997 boating season. Concurrently, Port staff will initiate a bid solicitation process for an operator of the Public Boat Ramp Bait, Shop and Cafe.

Prepared by: Sharon Lee Polledri,
Director of Planning and Development

Bay View BOAT CLUB

489 China Basin Street, Pier 54
San Francisco, CA 94107
(415)495-9500

July 4, 1996

Design Review Board
San Francisco Bay Conservation and Development Commission
30 Van Ness Avenue, Suite 2011
San Francisco, CA 94102
in care of
Mr. Joe Wyman
Port of San Francisco

RE: Pier 52 Public Boat Launch Ramp, Cafe/Bait Shop & Public Access Improvements

Gentlemen:

The Bay View Boat Club (BVBC) strongly supports the Port's plan for a new Public Boat Launch Ramp facility at Pier 52. We are long time Port tenants and among very few active recreational maritime users of the southern San Francisco waterfront. This area has been long neglected; in part because of the extensive planning process now underway in connection with the Waterfront Land Use Plan, and in part because of the significant delay in implementing Catellus Development Corporation's Mission Bay Plan.

We actively supported the San Francisco Department of Recreation and Parks in their efforts to obtain grant funds to repair and rehabilitate the only public boat launch ramp in San Francisco, which was damaged initially by the Loma Prieta earthquake, and subsequently by severe winter storms. We are very pleased that the Port of San Francisco has assumed responsibility for the public launch ramp and the public access improvements required under BCDC Permit No. 19-84. Port staff, members of the Waterfront Plan Citizens Advisory Committee and the members of the CAC's Pier 52 subcommittee actively solicited our comments about the new Boat Launch/Bait Shop/Public Access Plan, as well as those of our neighbors at the Mariposa/Hunters Point Yacht Club and of other recreational boaters who use the current boat launch ramp.

We feel that the Plan being proposed accurately reflects the concerns of southern waterfront users, and will provide great public benefits for this area. While it might be quite some time for the rest of the Waterfront Land Use Plan to be approved, or for Catellus to develop the south of the Channel portion of Mission Bay, the Port's proposed Plan will help to revitalize the area immediately, and provide an opportunity for many more people to enjoy this potentially delightful part of San Francisco Bay.

As we have expressed to the Port, we would like to see the following included in the Plan:

1. The area between the Pier 52 Boat Launch/Bait Shop/Public Access facility reserved for future recreational maritime use; possibly as a boat hoist, if a developer can be located.

2. Adding as little rip-rap as possible in the area of the current boat launch ramp as is consistent with shoreline stabilization, so as to maximize the amount of useable navigable water in the basin.

3. Monitoring silting-in of the basin which might be affected by current changes as a result of building the new guest dock, and dredging the area, as necessary, to maintain water depth.

We realize that the disposition of the old Santa Fe railroad dock is not a subject of this permit application, but do feel that if a portion of the old dock (on the water side and southeast of the railroad car lifting machinery) could be retained, it could also be used as a public access walkway and possibly a fishing pier. It could also help protect the guest dock at the public launch ramp from tidal surges and severe winter storms, which hastened the demise of the old public launch ramp.

We feel that this Pier 52 Boat Launch facility will greatly improve access to the Bay for people with limited resources, and encourage more public use of this neglected shoreline. We look forward to working with the Port to make this project a reality, and hope to have your support in this endeavor.

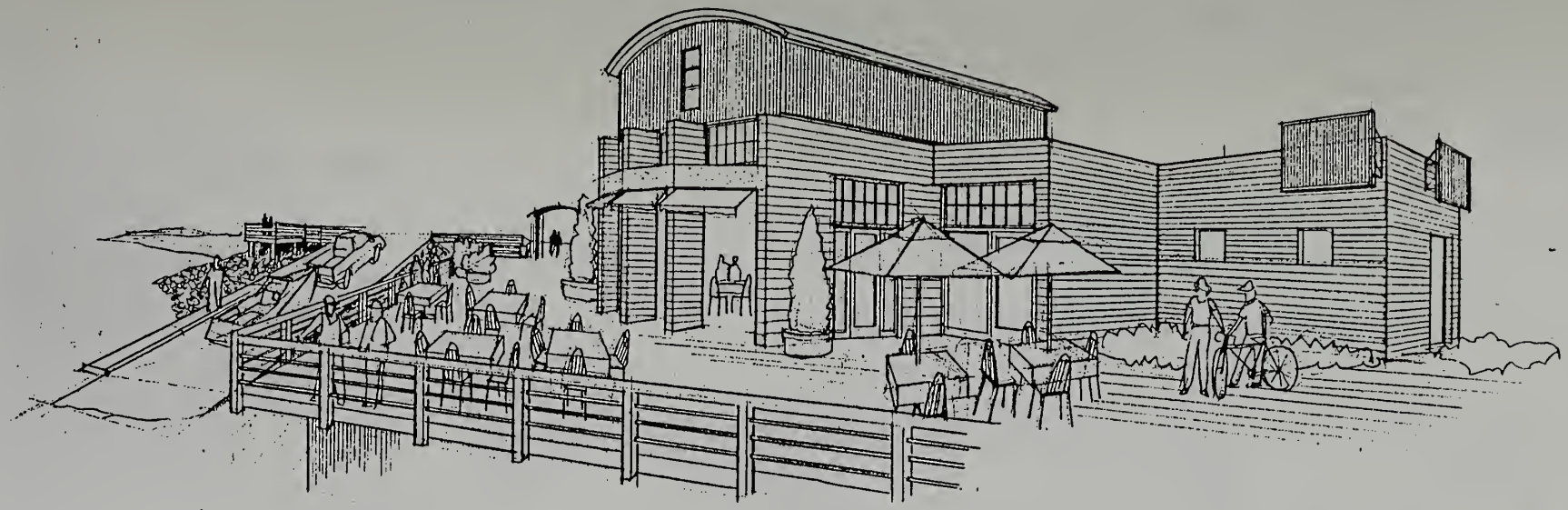
Sincerely yours,

BAY VIEW BOAT CLUB

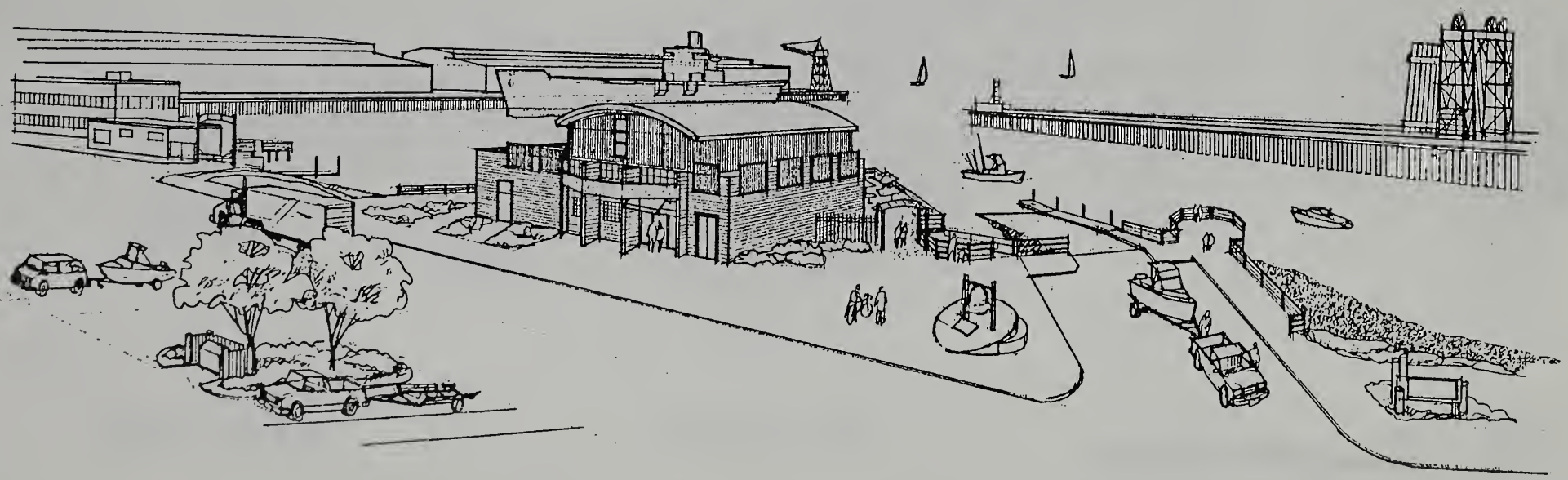
Jerry Liberatore
Commodore

Corinne Woods
Secretary

Betty Boatright
Advisor



PIER 52 SAN FRANCISCO PUBLIC BOAT LAUNCH CAFE & BAIT SHOP

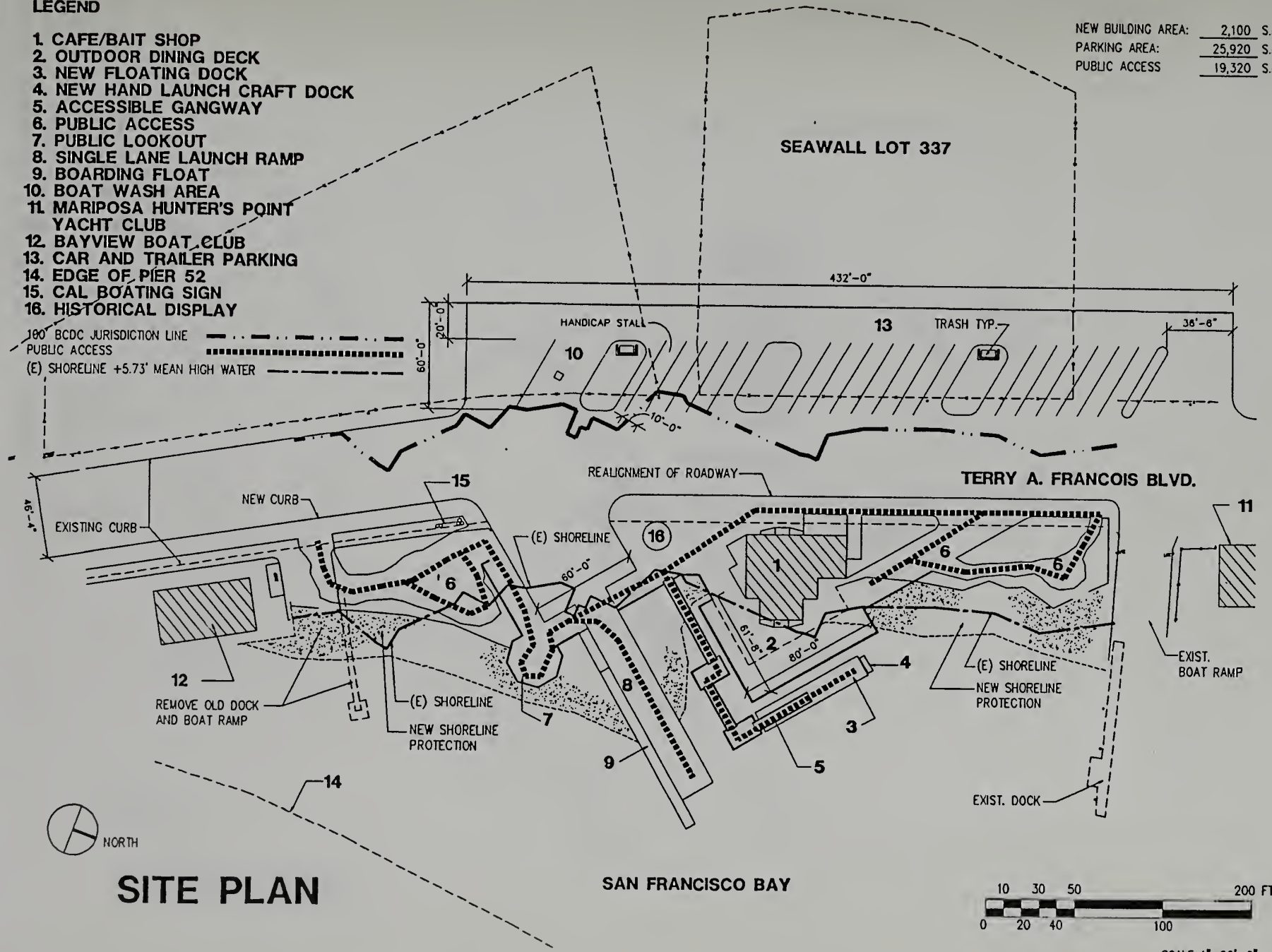


LEGEND

1. CAFE/BAIT SHOP
2. OUTDOOR DINING DECK
3. NEW FLOATING DOCK
4. NEW HAND LAUNCH CRAFT DOCK
5. ACCESSIBLE GANGWAY
6. PUBLIC ACCESS
7. PUBLIC LOOKOUT
8. SINGLE LANE LAUNCH RAMP
9. BOARDING FLOAT
10. BOAT WASH AREA
11. MARIPOSA HUNTER'S POINT YACHT CLUB
12. BAYVIEW BOAT CLUB
13. CAR AND TRAILER PARKING
14. EDGE OF PIER 52
15. CAL BOATING SIGN
16. HISTORICAL DISPLAY

100' BCDC JURISDICTION LINE
PUBLIC ACCESS
(E) SHORELINE +5.73' MEAN HIGH WATER

NEW BUILDING AREA:	2,100	S.F.
PARKING AREA:	25,920	S.F.
PUBLIC ACCESS	19,320	S.F.



SITE PLAN

ARCUS

Public Boat Ramp
Cafe/Bait Shop
Public Access

PIER 52
PORT OF SAN FRANCISCO
CALIFORNIA

Job No. 9522
Date 5/24/96
Drawn By —
Chkd By —

ISSUANCES & REVISIONS:

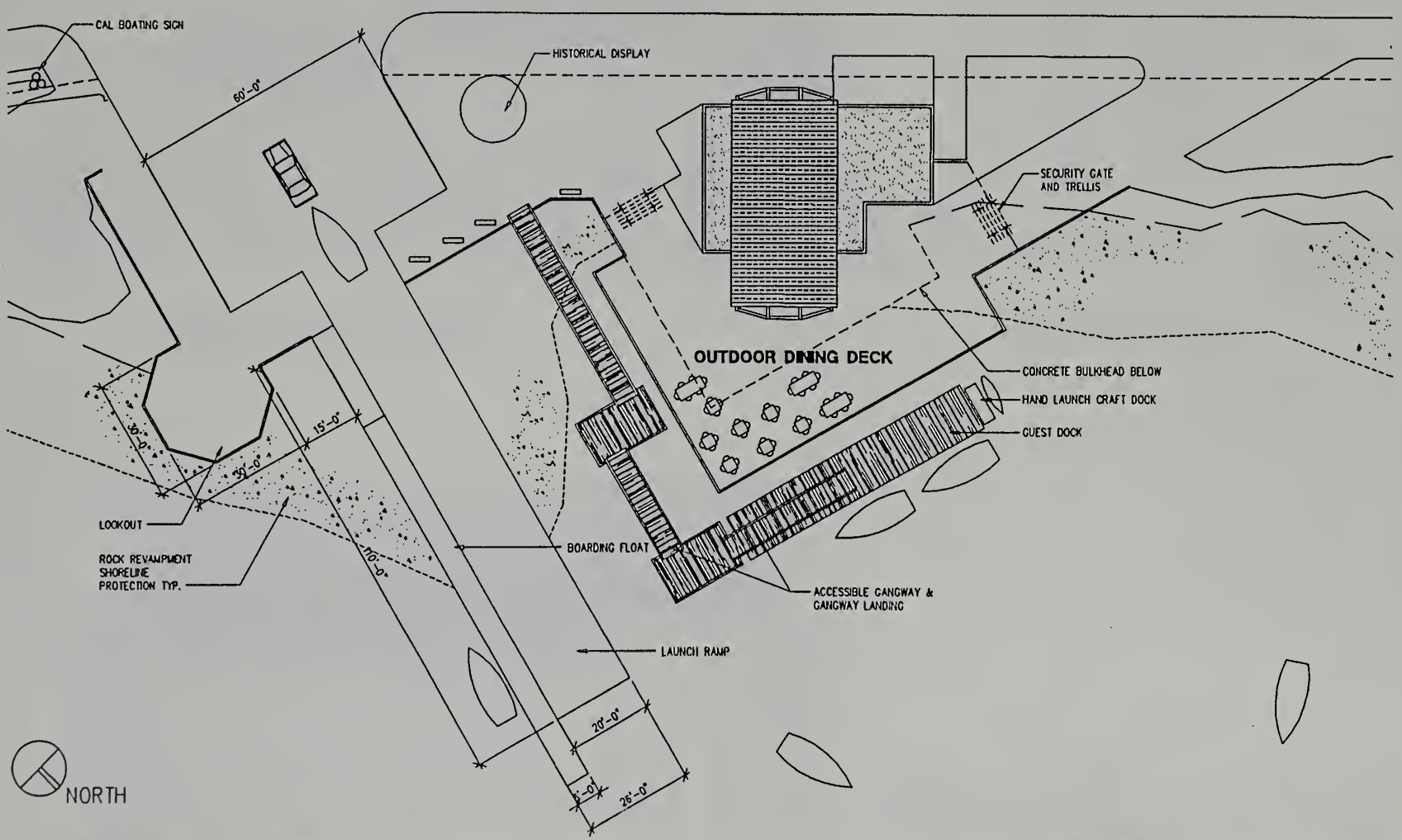
No.	Date	Description

Sheet Title
SITE PLAN AND LEGEND

Sheet No.
A-2
- of - Sheets

NOTE: SEE LANDSCAPE PLAN FOR PLANTING MATERIALS

NEW BUILDING AREA:	2,100	S.F.
PARKING AREA:	25,920	S.F.
OUTDOOR DINING DECK	3,660	S.F.
GANGWAY & DECK	1,690	S.F.
BOAT LAUNCH	3,340	S.F.



SITE PLAN

5 15 25 100 FT.
0 10 20 50

SCALE 1"=10'-0"

ARCUS
ARCHITECTURE + PLANNING

Public Boat Ramp
Cafe/Bait Shop
Public Access

PIER 52
PORT OF SAN FRANCISCO
CALIFORNIA

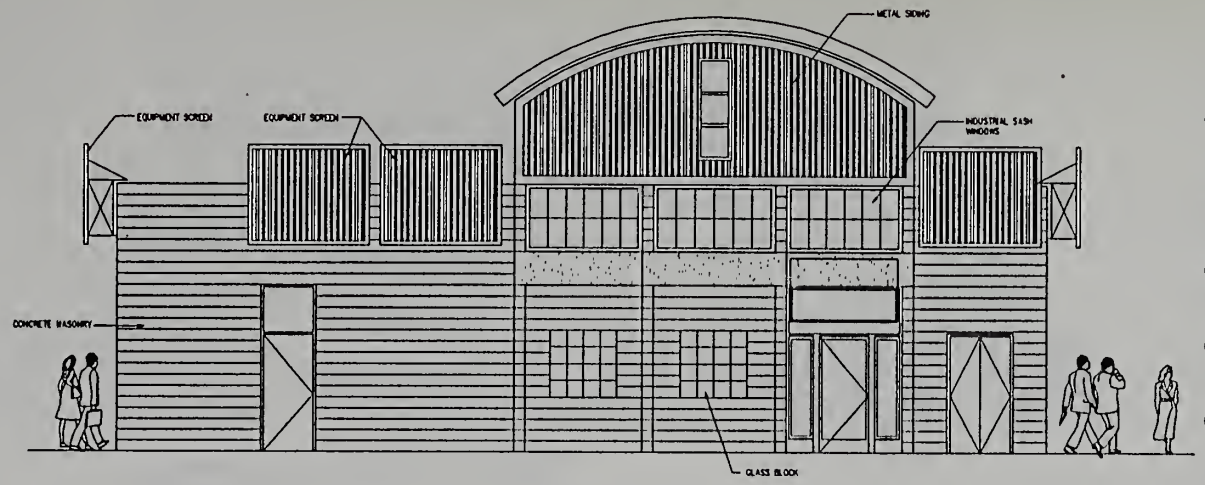
Job No. 9522
Date 5/24/96
Drawn By —
Chkd By —

ISSUANCES & REVISIONS

No.	Date	Description

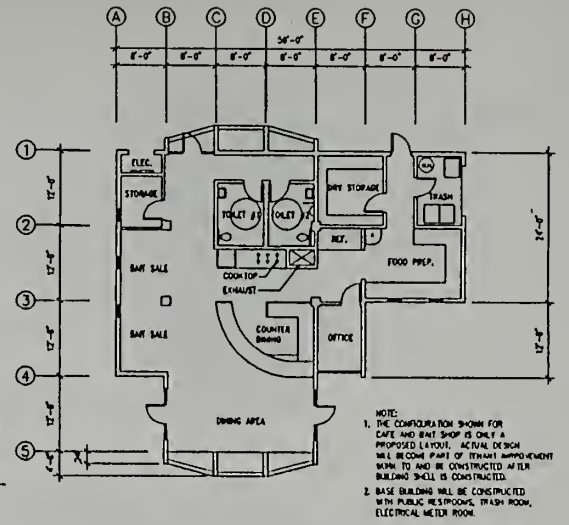
Sheet Title
SITE PLAN

Sheet No.
A-3
- of - Sheets



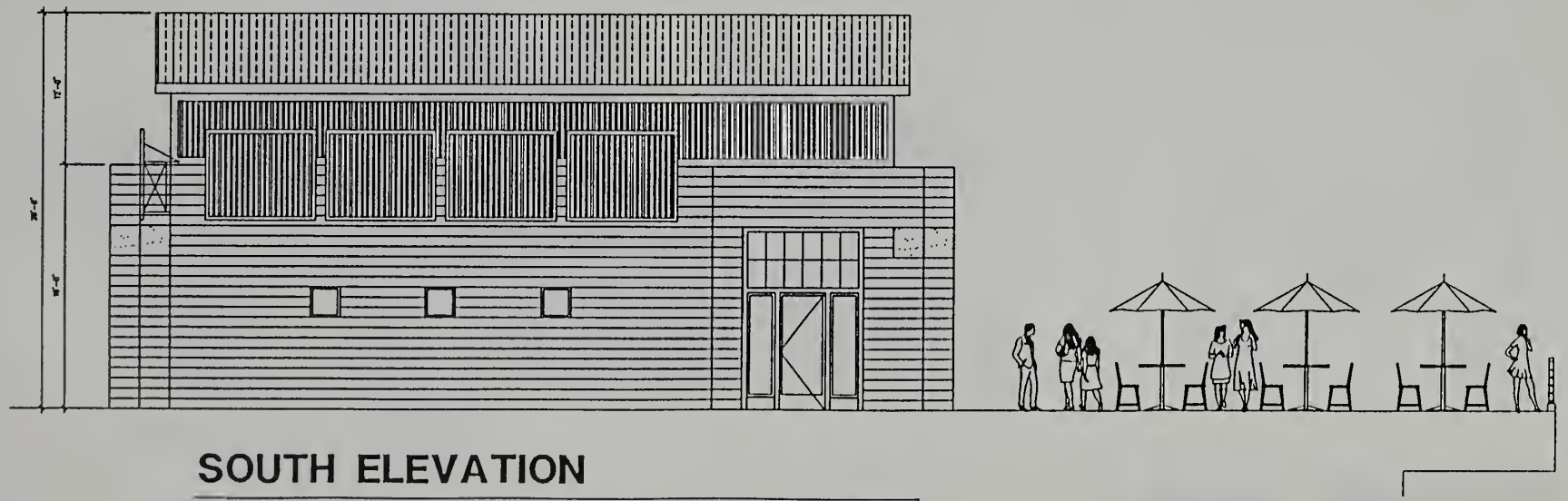
WEST ELEVATION

SCALE: 3/8" = 1'-0"



FLOOR PLAN

SCALE: 1/8" = 1'-0"



SOUTH ELEVATION

SCALE: 3/8" = 1'-0"

ARCUS
ARCHITECTURE + PLANNING

Public Boat Ramp
Cafe/Bait Shop
Public Access

PIER 52
PORT OF SAN FRANCISCO
CALIFORNIA

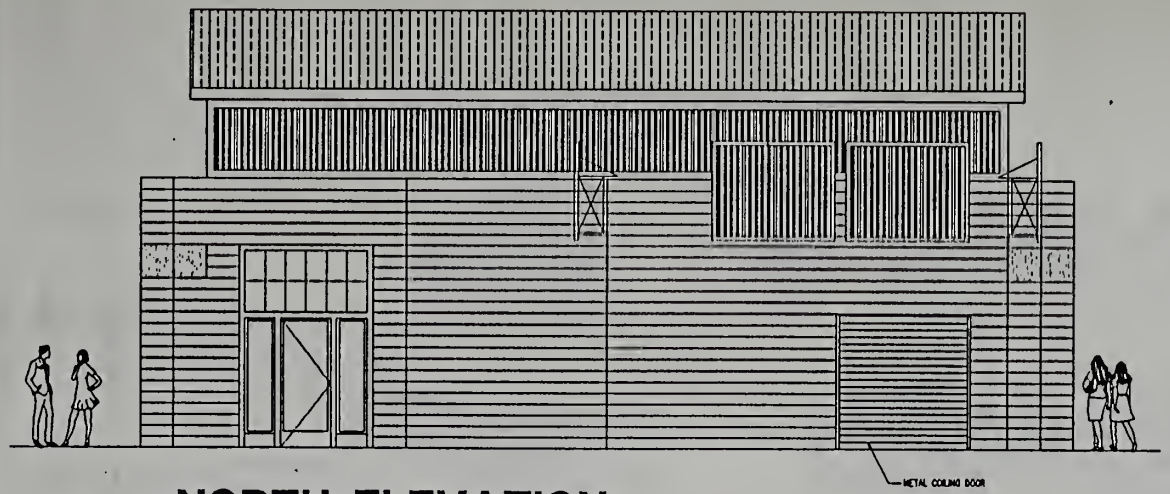
Job No.	9522
Date	8/24/96
Drawn By	--
Chkd By	--

ISSUANCES & REVISIONS

No	Date	Description

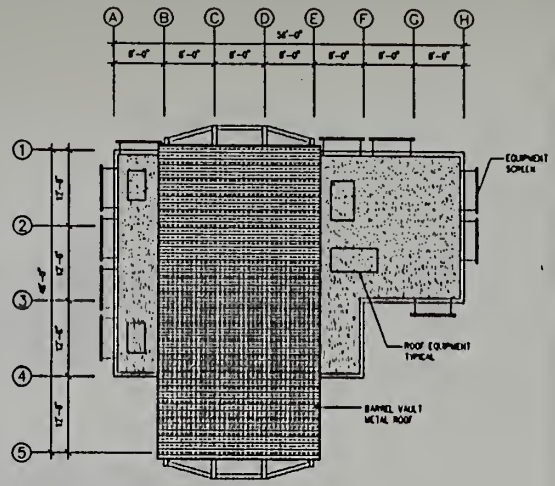
Sheet Title
FLOOR PLAN
EXTERIOR
ELEVATIONS
SECTION

Sheet No
A-4
- of - Sheets



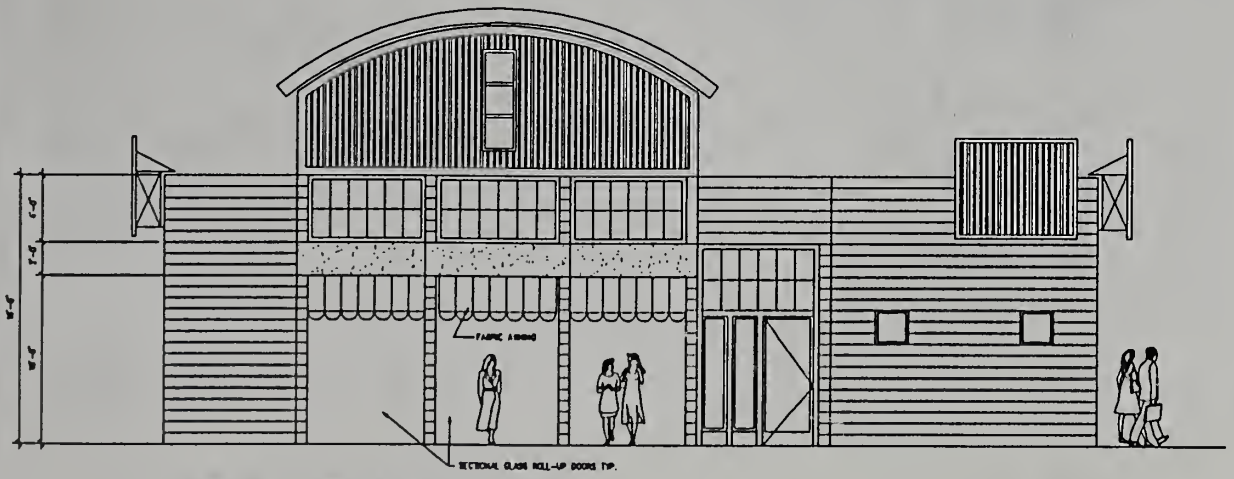
NORTH ELEVATION

SCALE: 3/8" = 1'-0"



ROOF PLAN

SCALE: 1/8" = 1'-0"



EAST ELEVATION

SCALE: 3/8" = 1'-0"

METAL SIGN PANEL

ARCUS
ARCHITECTURE + PLANNING

Public Boat Ramp
Cafe/Bait Shop
Public Access

PIER 52
PORT OF SAN FRANCISCO
CALIFORNIA

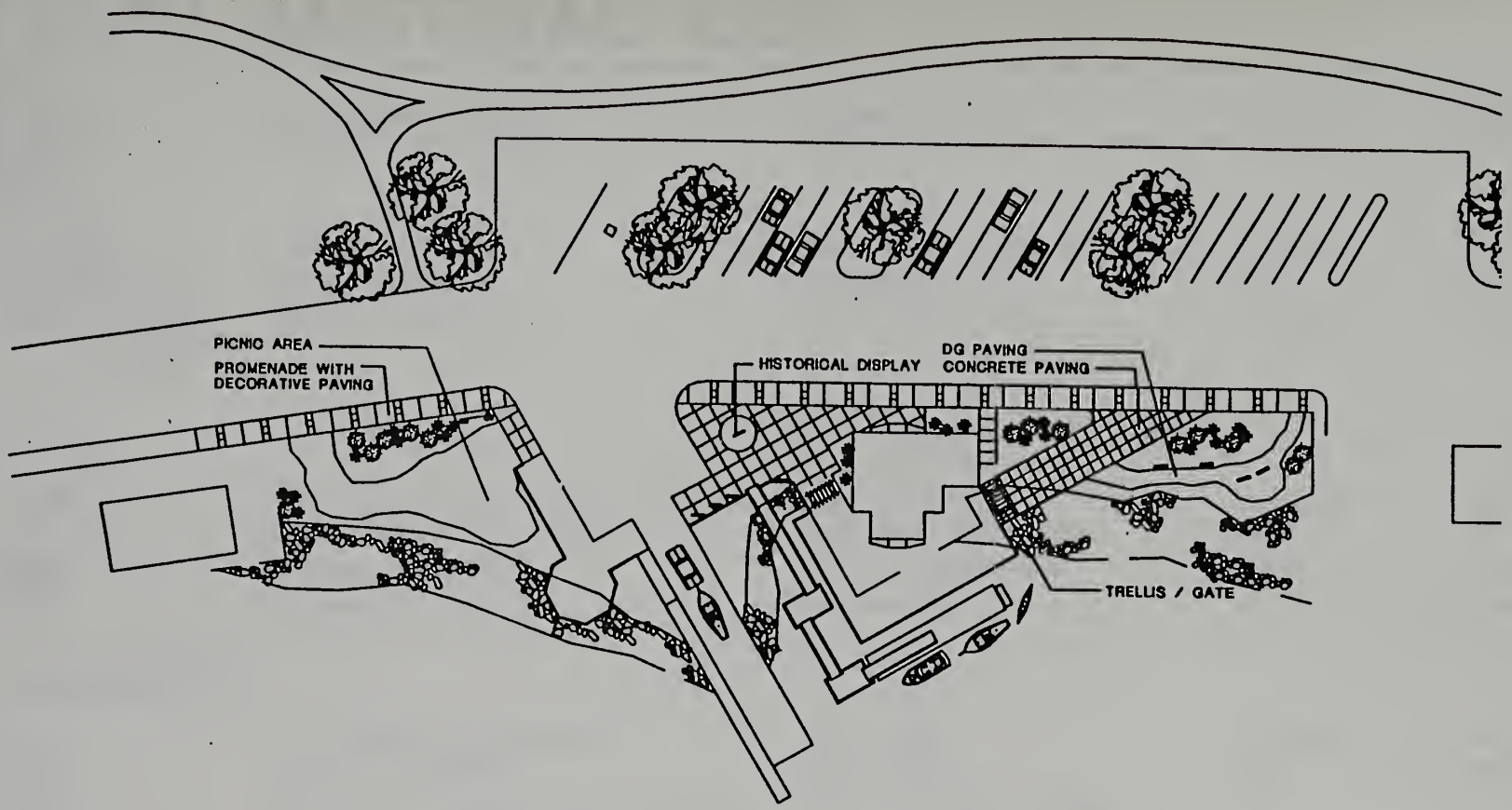
Job No. 9522
Date 5/24/96
Drawn By --
Chkd By --

ISSUANCES & REVISIONS:

No	Date	Description

Sheet Title
ROOF PLAN
EXTERIOR
ELEVATIONS
SECTION

Sheet No.
A-5
- of - Sheets



PUBLIC BOAT RAMP
CAFE/BAIT SHOP
PUBLIC ACCESS

SITE PLAN

PLANT MATERIAL LIST

SYMBOL	BOTANICAL NAME	COMMON NAME	HEIGHT	SPREAD
TREES				
	Prunus ilicifolia	Holly Leaf Cherry	20'-30'	20'-30'
	Prunus lyonii	Catalina Cherry	45'	30'
	Quercus agrifolia	Coast Live Oak	30'-60'	30'-60'
SHRUBS				
	Arctostaphylos 'Canyon Blush'	Manzanita	varies	varies
	Ceanothus 'Dark star'	California Wild Lilac	6'	12'
	Echium fastuosum	Pride of Madeira	3'-6'	3'-6'
	Eriogonum spp.	Buckwheat	4"-12"	varies
GROUNDCOVERS				
	Arctostaphylos species	Manzanita	varies	varies
	Armeria maritima	Sea Thrift	14"	varies
	Baccharis pilularis var. pilularis	Dwarf Coyote Bush	3'	6'
	Ceanothus 'Yankee Point'	California Wild Lilac	3'-4'	8'
	Eschscholzia californica	California Poppy	12"-15"	12"-15"
	Sisyrinchium bellum	Blue-Eyed Grass	4"-16"	1'-2'
	Romneya coulteri	Matilija Poppy	4'-8'	4'-8'

ARCUS

PUBLIC BOAT RAMP
CAFE/BAIT SHOP
PUBLIC ACCESS

PLANT
MATERIAL LIST

PORT OF SAN FRANCISCO

MEMORANDUM

August 13, 1996

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Resolution approving and urging the execution of a Memorandum of Agreement by the Mayor and Clerk of the Board of Supervisors for the transfer from Caltrans to the City of San Francisco of four parcels of property near the intersection of Howard Street and Steuart Street, approving the acceptance by the Director of Property of such parcels, and authorizing the jurisdictional transfer of such parcels from the City to the Port

DIRECTOR'S RECOMMENDATION: APPROVE THE ATTACHED RESOLUTION.

Background

The Embarcadero Freeway Structure was damaged in the 1989 Loma Prieta Earthquake, and was subsequently demolished and removed. A number of parcels of land that were part of the Embarcadero Freeway right-of-way are being conveyed from the State of California, Department of Transportation (Caltrans) to the City and County of San Francisco.

The conveyance of these Caltrans properties is in accordance with Section 72 of the Streets and Highways Code, which requires Caltrans to remove the Embarcadero Freeway structure (Route 480) and convey to the City those portions of Route 480 no longer required for right-of-way purposes.

The City intends to enter into a Memorandum of Agreement ("MOA") with Caltrans for the conveyance of these parcels. Because four of the parcels (Parcel Nos. 3, 4, 7 and 8) are within the Port's jurisdiction or are encumbered by the Port in some fashion, the Port Commission must

consent to the Board of Supervisor and Mayor's approval and execution of the MOA, and must approve acceptance of the four Port parcels by the Director of Property. In addition, the Port Commission must approve the jurisdictional transfer of the four parcels to the Port. The parcels are shown on Attachment A attached hereto, and are summarized below.

Parcel No	**Area (appr.)**	**Location (See Attachment A)**
		Between:
Parcel 3 (APN 3715/11)	11,116 sf	Embarcadero- Steuart, Howard- Folsom Sts.
Parcel 4 (APN 3715/11)	5,952 sf	Embarcadero - Steuart, Mission - Howard Sts.
		Air rights over the following public streets:
Parcel 7	11,211 sf	Steuart between Howard - Folsom Sts.
Parcel 8	7,991 sf	Howard between Embarcadero - Steuart Sts.

Some additional clarification regarding each of these parcels is provided below.

Parcel 3 (Referred to by the Port as Seawall Lot 347 South).

This parcel was originally acquired by Caltrans in the 1950's for the construction of Route 480. A permanent surface easement for parking automobiles was granted to the State Harbor Commission (the predecessor of the Port Commission) at that time. Until the 1989 earthquake, the Port had been leasing this property to a parking lot operator for surface parking operations. The surface easement would be terminated upon the transfer of the property from the State to the City.

The realignment of the Embarcadero Roadway may require that a portion of this parcel be used for roadway purposes.

Parcel 4 (referred to by the Port as Seawall Lot 347 North)

Similar to parcel 3, Caltrans acquired this site in the 1950's for the construction of Route 480. In 1965, the San Francisco Port Authority (the Port Commissions predecessor) entered into a surface easement with Caltrans for parking automobiles.

In 1984, the developer of an adjacent Redevelopment Agency parcel (Bayside Plaza) was required to build a public plaza on this parcel as a condition of development. The Port entered

into a month-to-month license agreement with the developer (J-Dart Corporation) for this site, which is currently in effect.

The realignment of the Embarcadero Roadway may require that a small portion of this parcel be used for roadway purposes.

Parcels 7 and 8

Parcels 7 and 8 are public streets (portions of Howard Street and Steuart Street) under Port jurisdiction over which Caltrans possesses the air rights. Caltrans is proposing to convey the air rights to the City and Port under the proposed action.

Department of City Planning Approvals

The Department of City Planning reported on June 8, 1994 that the acquisition of the subject property and any other parcels on Route 480 would be in conformity with the General Plan and consistent with the eight priority policies of City Planning Code Section 101.1, and the Director of City Planning has confirmed that such report is unchanged and still in effect.

Use of Parcels for Embarcadero Roadway

The City anticipates that portions of SWL 347N and SWL 347S will be required for completion of the Embarcadero roadway right-of-way. The Director of Public Works has requested that the Port agree to allow certain portions of those parcels, to be determined by mutual agreement, to be used for the Embarcadero right-of-way.

Prepared by: Sharon Lee Polledri,
Director of Planning and Development

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-78

WHEREAS, Section 72 of the California Streets and Highway Code requires the State to remove the Embarcadero Freeway structure (Route 480) and to convey to the City and County of San Francisco, at not cost, those porions of Route 480 no longer required for right-of-way purposes; and

WHEREAS, The State, acting by and though its Department of Transportation, has to date determined that certain portions of the Route 480 right-of-way are not necessary for new freeway ramps and, as a result thereof, the City has the right to acquire those portions of the right-of-way pursuant to the terms and conditions of Section 72 of the California Streets and Highways Code; and

WHEREAS, Section 72 of the California Streets and Highways Code requires the City to accept all obligations and liabilities associated with those portions of Route 480 conveyed to the City; and

WHEREAS, By letter dated June 8, 1994, the Department of City Planning reported its findings that the proposed acquisition of the Caltrans Property and any other portions of Route 480 from the State of California is consistent with the City's General Plan and with the Eight Priority Policies of City Planning Code Section 101.1; and

WHEREAS, In accordance with the recommendation of the Director of Public Works and the Director of Property, a Memorandum of Agreement (including the waivers and indemnities of the State contained therein) regarding the conveyance of these parcels will be considered by the Board of Supervisors and, upon approval, will authorize the execution of said agreement with the State of California by the Mayor and Clerk of the Board of Supervisors, on behalf of the City and County of San Francisco; and

WHEREAS, Parcels 3,4,7 and 8, as identified on Attachment A attached to the memorandum attached to Agenda Item No. 7B for the August 13, 1996 Commission meeting are within the Port's line of jurisdiction or are encumbered by the Port in some fashion; and

WHEREAS, Port Commission approval has been requested to approve certain City actions regarding transfer of the parcels in which the Port has legal interest from Caltrans to the City, and from the City to the Port; now, therefore be it

RESOLVED, That the Port Commission hereby recommends approval and execution of the Memorandum of Agreement regarding the transfer of the Caltrans parcels from the State to the City; and be it further

RESOLVED, That the Port urges and authorizes the Director of Property to accept the Director's Deed to Parcels 3,4,7 and 8 in accordance with the terms and conditions of the Memorandum of Agreement, and to take any and all steps (including, but not limited to, the execution and delivery of the Assignment of Leases contemplated by the Memorandum of Agreement and any and all other certificates, notices, consents, instructions and documents) as the Director of Property deems necessary or appropriate in order to consummate the acquisition of the Caltrans Property pursuant to the terms and conditions of the Memorandum of Agreement; and, be it further

RESOLVED, That the Port authorizes the jurisdictional transfer of Parcels 3,4,7 and 8 to the Port from the Director of Property, and authorizes the Port's Executive Director to take any and all steps as he deems necessary or appropriate in order to consummate the transfer; and be it further

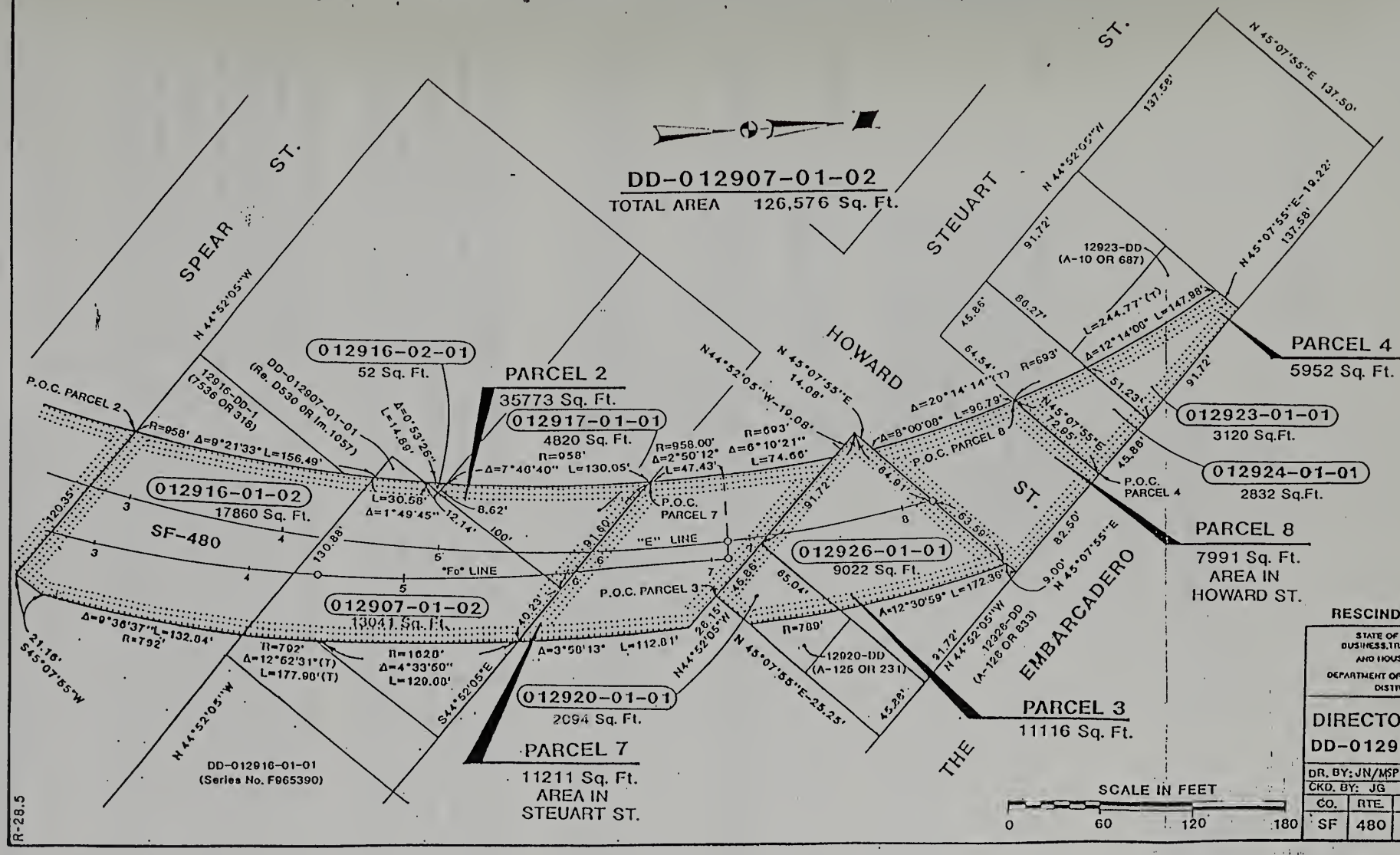
RESOLVED, That the Port shall allow certain portions of Parcels 3,4,7, and 8 to be determined by mutual agreement of the Director of Public Works and the Port Commission to be retained for the Embarcadero Roadway right-of-way.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of August 13, 1996.

_____
Secretary

I:\CALTRNS.HOW

CITY AND COUNTY OF SAN FRANCISCO



RESCINDED ROUTE

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION
AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION
DISTRICT 4

DIRECTOR'S DEED
DD-012907-01-02

DR. BY: JN/MSP		DATE: .5-96	
CKD. BY: JG		SCALE: AsShown	
CO.	RTE.	P.M.	DR.NO.
SF	480	0.07 / 1.2	3 of 3

R-28.5

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

August 7, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Revisions to Approval of Bid and Award of Revenue Bond Reserve Fund Investment Agreement

DIRECTOR'S RECOMMENDATION: AUTHORIZE REVISIONS TO BID AND AWARD OF REVENUE BOND RESERVE FUND INVESTMENT AGREEMENT

On June 11, 1996, the Commission adopted Resolution No. 96-54 which authorized and approved the solicitation of bids to determine the provider of securities under the Forward Purchase Agreement. The Commission also approved the Forward Purchase Agreement (the "Agreement") substantially in the form included in the June 11, 1996 agenda package and authorized the Executive Director to make non-material changes to the Agreement.

Following adoption by the Commission, the Port circulated a second draft of the Agreement to potential bidders. The terms of the Agreement were aggressive which reflected market conditions at the time the Agreement was initially drafted. The market has become much more conservative due to a variety of factors including extraordinary investment losses by Bank of Barings, Daiwa Securities and Sumitomo Bank. As a result of increased scrutiny throughout the capital market, potential bidders and their counsel have requested material modifications to the Agreement that are commercially reasonable.

THIS PRINT COVERS CALENDAR ITEM NO. 8A

These modifications are summarized as follows:

- Port will be a party to the Agreement with the Provider and the Bond Trustee (previously the Provider and the Trustee were the only parties to the Agreement)

- If the Port draws on the Reserve Fund, thereby reducing the amount available for investment, the Port will compensate the Provider

- Provider may be entitled to a pro-rated termination fee in the event a future refunding results in a lower investment amount

- Port will not require the Provider to pay a termination fee to the Port if the Agreement is assigned to a new vendor, such new vendor to be subject to the consent of the Port

Under the Agreement, termination fees and other compensation amounts are calculated pursuant to formulas to reduce uncertainties. The proposed modifications to the Agreement are commercially reasonable and staff believes that incorporating these modifications will help to attract bidders. The City Attorney's office and Port's Bond Counsel have also reviewed all of the proposed changes. A copy of the new form of Agreement and a copy of the Agreement that is black-lined to show changes from the form of Agreement previously adopted on June 11, 1996, are attached.

Prepared by: Benjamin A. Kutnick
Director, Administration

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

AMENDED RESOLUTION NO. 96-54

WHEREAS, on June 11, 1996, the Commission adopted Resolution No. 96-54 authorizing and approving the solicitation of bids to determine the provider of securities under the Forward Purchase Agreement; and

WHEREAS, Resolution No. 96-54 approved the Forward Purchase Agreement in substantially final form; and

WHEREAS, potential bidders have requested commercially reasonable changes to the Forward Purchase Agreement; now, therefore be it

RESOLVED, that the San Francisco Port Commission hereby approves material changes to the Forward Purchase Agreement, a copy of which is on file with the Port Commission Secretary in file No. 96-54. The material changes are as follows:

- Port will be a party to the Agreement;
- Port will compensate Provider in the event a withdrawal from the Reserve Fund reduces the investment amount;
- Provider may terminate the Agreement if the Reserve Fund cannot be replenished to $5,361,000 after one year, and Port may owe a termination fee to Provider;
- Provider may be entitled to a pro-rated termination fee in the event a refunding results in a lower investment amount; and
- Port will not require Provider to pay a termination fee to Port if the Agreement is assigned to a new vendor;

and, be it further

RESOLVED, that the Executive Director is hereby authorized to select the highest responsible bidder satisfying the requirements of such solicitation and is authorized to make any necessary changes, in consultation with the City Attorney, to the Forward Purchase Agreement or other documents necessary to carry out the intent of such Agreement; provided that the interest rate payable to the Port shall not be less than 5.75% per annum and the successful bidder shall have a credit rating for its long term debt in one of the two highest categories by Moody's Investors Service and Standard & Poor's Corporation.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 13, 1996.

_____
Secretary

REQUEST FOR OFFERS

FORWARD PURCHASE AGREEMENT FOR RESERVE FUND

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA REVENUE REFUNDING BONDS, SERIES 1994

General. The Port Commission of the City and County of San Francisco (the "Port") is soliciting offers for a Forward Purchase Agreement (the "Agreement") for funds related to the Port's Revenue Refunding Bonds, Series 1994 (the "Bonds").

The Agreement will provide, among other terms, for the forward sale of Government Obligations to Union Bank, San Francisco, CA (the "Trustee"). The Agreement will be entered into on the Settlement Date (defined below) and will be among the Trustee, the Port and the Qualified Financial Institution selected by the Port (the "Provider").

Government Obligations shall be delivered at such times and in such amounts as are required to invest funds deposited in the Reserve Fund (the "Reserve Fund"), initially from _____, 1996. Each Government Obligation will be required to mature on or before the next applicable January 1 or July 1 on which debt service payments are required to be made (the "Bond Payment Dates") as shown on Exhibit A of the Agreement. Government Obligations may be delivered for purchase on any date, including the Bond Payment Dates, provided that if Government Obligations are sold to the Trustee on more than three (3) occasions in any semiannual period, the Provider will be obligated to pay the transaction fees of the Trustee.

Government Obligations shall be limited to (i) direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America, (ii) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (iii) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (iv) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

The price of the Government Obligations will be established so as to effect an approximate zero yield-to-maturity during the period in which the Government Obligations are

held in the Reserve Fund. (The yield-to-maturity may not be exactly zero due to rounding.) The Government Obligations may be delivered in such amounts as to invest fully all amounts deposited (the "Available Amounts") in the Reserve Fund. The expected Available Amounts, Maturity Dates and the Bond Payment Dates are shown on Exhibit A of the attached Agreement.

Form of the Forward Purchase Agreement. The proposed form of Agreement is attached hereto as Attachment D. Please review the Agreement and determine that its form is satisfactory to you before bidding. **The Agreement shall be the final agreement between the parties and will not be subject to any negotiations after the award of the bid. By submitting a bid, the bidder acknowledges that it has read all the terms and conditions of the Agreement and is prepared to execute the Agreement in the form circulated.** The Port reserves the right to make non-material changes to the Agreement at any time prior to the final execution of the Agreement.

The Bonds. The Bonds were issued on June 28, 1994. The Bonds are governed by an Indenture of Trust dated as of June 1, 1994, as supplemented by the First Supplemental Indenture of Trust, dated as of June 1, 1994 (collectively, the "Indenture"), each by and between the Port and the Trustee.

The Bonds are rated A and BBB+ with a stable outlook by Moody's Investors Service and Standard & Poor's Rating Group, respectively. The Agreement will be subject to approval and conditions of Moody's and S & P.

The Reserve Fund is established in accordance with Section 5.04 of the Indenture. The Indenture provides that the Reserve Fund be funded in an amount equal to the Reserve Requirement. The Reserve Requirement for the Bonds is $5,361,000 and will remain at this amount during the scheduled term of the Agreement (assuming the Bonds are retired as scheduled and are not defeased in whole or in part prior to maturity).

Qualified Financial Institution. The Agreement may only be executed with a "Qualified Financial Institution" as described below:

A "Qualified Financial Institution" shall mean a bank, insurance company, trust company, national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956, or a dealer in government securities which is recognized as a primary dealer by a Federal Reserve Bank, or other domestic corporation, and whose unsecured obligations or uncollateralized debt obligations have been assigned a long-term debt rating of at least AA, or the equivalent, by Moody's Investors Service, Inc., and Standard & Poor's Corporation, respectively.

Notional Amount. The Bonds settled on June 28, 1994. It is currently expected that purchases of Government Obligations will commence under the Agreement on the Settlement Date after the execution of all documents related to the Agreement. Deposits will be made by electronic transfer to the account specified by the successful Qualified Financial Institution. On the Settlement Date, the Port anticipates that $5,361,000 (the "Notional Amount") will be

available for purchases of Government Obligations from the Provider. No further deposits are expected to be made under the Agreement.

Use of Reserve Fund Monies. The Port established the Reserve Fund pursuant to the terms and conditions of the Indenture. The purpose of the Fund is to help secure the timely payment of principal and interest on the Bonds. Under the Indenture, the Trustee is obligated to transfer the monies in the Fund to the Debt Service Fund if the monies in the Debt Service Fund are insufficient to pay the principal and interest payable on the next Bond Payment Date. The Bond Payment Dates are January 1 and July 1 of each year.

Termination. The Agreement will provide that the Port may terminate the Agreement at will with respect to all or a portion of the Notional Amount. Upon such termination, a termination value will be payable to the Port or the Provider, as applicable, based upon a determination of the Agreement's fair market value to each party at such time.

Refunding of the Bonds. Under the Agreement, the Provider will agree that the Agreement may be transferred to a reserve fund for any bonds issued to refund the Bonds. If the Notional Amount of the Agreement will be reduced in connection with such transfer then the provisions regarding partial optional termination of the Agreement will apply. The Port and the Provider are free to negotiate an increase in the Notional Amount or a change in the payment schedule for the Agreement if desired at such time.

Downgrade. In the event that the Provider is no longer a Qualified Financial Institution, the Port shall have the right to terminate the Agreement. The original Provider will have a limited right to assign the Agreement to a Qualified Financial Institution, subject to the Port's consent, which consent can be withheld in its sole and absolute discretion.

The Term. The term of the Agreement will be from _____, 1996, to July 1, 2004, the call date of the Bonds or July 1, 2009, the maturity date of the Bonds. The Port will solicit bids for each termination date and notify the winning bidder of the term of the Agreement when the winning bid is awarded.

The Governing Law. The Agreement shall be governed by laws of the State of California. A legal opinion rendered with respect to California law will be required from counsel to the Qualified Financial Institution. See "Evidence of Qualifications and Legal Opinion" below and Attachment C attached hereto.

Offer Submission. All offers are due by 1:00 p.m. EDT, Monday, July 29, 1996. Offers should be telecopied to the Port's financial advisor, Public Financial Management, Inc. ("PFM"), attention Rich Rein or Michael Harris, telephone: (717) 232-2723, fax: (717) 233-6073 or (717) 232-3087 using the Offer Sheet as attached as Attachment A hereto.

Each Offer may include bids for both termination dates, July 1, 2004 and July 1, 2009. See "The Term" above.

Each Offer should specify each semi-annual fee payment and the total fee amount and should be signed by an appropriate officer of the Qualified Financial Institution. Except for the

first semi-annual fee payment, all fee payments must be equal. All fees amounts are required to be paid on the Delivery Dates as listed on Exhibit B to the Agreement. See Attachment A hereto for the Offer Sheet. Any Offer submitted with any conditions shall be subject to rejection by the Port. The Port will have the right to reject any and all offers.

Award. The Agreement will be awarded to the Qualified Financial Institution providing the highest total amount of all semi-annual fee amounts.

The award shall be made as soon as practical after the tabulation of the offers. The Port reserves the right to reject any and all offers that are not submitted in strict accordance with the terms herein. The Port also reserves the right, in its sole discretion, to waive any irregularity or informality in any bid and to select the winning bidder among bidders submitting identical bids.

Amendment. This Request for Offers may be amended, supplemented or rescinded at any time prior to the date and time at which offer submissions are due as described above, by transmission to the potential Qualified Financial Institutions in the same manner as this Request for Offers is being transmitted.

Additional Information. Potential Qualified Financial Institutions requesting additional information may contact Michael Harris, telephone (717) 232-2723.

Expenses. All expenses associated with the Provider's performance of the Agreement, including but not limited to the Provider's legal fees, safekeeping fees, brokers' fees, collateral substitution fees and electronic funds transfer charges, are the responsibility of the Provider.

Under the Agreement, the Provider shall be responsible for paying the transactional fees of the Trustee if Qualified Eligible Securities are sold to the Trustee on more than three occasions during a semi-annual period.

At the direction of the Port, the Provider will be required to pay on behalf of the Port to PFM, a fee of 0.05% ("5 basis points") of the Notional Amount under the Agreement.

In accordance with the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the Provider shall be required to execute a certificate relating to administrative costs that will be paid to third parties in connection with the Agreement and other matters. See Attachment B for a form of this certificate.

Evidence of Qualifications and Legal Opinion. Prior to the execution of the Agreement, the successful Qualified Financial Institution shall furnish to the Port and the Trustee (i) such statements, certificates or other documents as the Port may reasonably request evidencing that such Qualified Financial Institution meets the qualifications described above, and (ii) an opinion of counsel acceptable to the Port in form of Attachment C hereto and in substance satisfactory to counsel to the Port to the effect that the Agreement constitutes a legally valid, binding, and

enforceable obligation of such Qualified Financial Institution and that the funds on deposit in the Reserve Fund would not constitute property of the Provider under bankruptcy proceedings.

Dated: _____, 1996

ATTACHMENT A

OFFER SHEET

PLEASE FAX YOUR OFFER TO the Port's financial advisor, Public Financial Management, Inc. no later than 1:00 p.m. EDT, Monday, July 29, 1996. Offers should be telecopied to the attention of Rich Rein or Michael Harris, telephone: (717) 232-2723, fax: (717) 233-6073 or (717) 232-3087. Should the timing of the pricing of the Agreement be changed, the new time will be announced via telecopy.

* * *

We have received and read the Request for Offers for a Forward Purchase Agreement dated _____, 1996 (the "RFO") concerning the investment of amounts in the Reserve Fund in connection with the Port Commission of the City and County of San Francisco Revenue Refunding Bonds, Series 1994. We have reviewed the proposed Forward Purchase Agreement. We acknowledge and understand that the terms of the proposed Forward Purchase Agreement will not be subject to further negotiations after the award of the bid. We are prepared to execute the proposed Forward Purchase Agreement without any conditions.

Our offer is as follows:

	Call Date (7/1/04)	Maturity Date (7/1/09)
First Fee Amount: $	_____	_____
Subsequent Semi-Annual Fee Amounts: $	_____	_____
Total Fee Amount: $	_____	_____
Financial Institution:	_____	
Long Term Ratings (Moody's/S&P):	_____	
Qualified Dealer(s) (pursuant to the Forward Purchase Agreement):	_____	

We hereby certify that we are a qualified provider under the requirements set forth in the RFO.

Signed: _____

Name: _____

Title: _____

Phone Number: _____

Fax Number: _____

Date: _____

ATTACHMENT B

CERTIFICATE OF PROVIDER WITH RESPECT TO FORWARD PURCHASE AGREEMENT

_____, 1996

Port Commission of the City and County
of San Francisco
Ferry Building, Suite 3100
San Francisco, CA 94111

Re: Forward Purchase Agreement, dated _____ __, 1996, Relating to the Reserve Fund for the Port Commission of the City and County of San Francisco Revenue Refunding Bonds, Series 1994

Ladies and Gentlemen:

In connection with the above-captioned Forward Purchase Agreement (the "Agreement"), the undersigned HEREBY CERTIFIES as follows:

1. The schedule attached hereto as Schedule A is a list of the recipient, amount and purchase of each brokerage fee, placement fee, commission, or other similar payment to third parties paid by, or on behalf of, the undersigned in connection with the Agreement. No payments are being made by the undersigned on behalf of the Port Commission of the City and County of San Francisco (the "Port") to any party.

2. The yield on the Agreement (after the payment of all fees in paragraph one hereof, if any) is not less than the yield that, as of the date the undersigned agreed to provide the Agreement, was currently available from the undersigned on reasonably comparable investment contracts offered to other persons from a source of funds other than amounts that are gross proceeds of an issue of tax-exempt obligations. The undersigned did not participate in, nor to the best of its knowledge did any party to whom the undersigned made any payment encompassed in the preceding paragraph participate in, any arrangement or understanding to limit, or otherwise set the yield on the Agreement.

3. The collateral security requirements of the Agreement, as provided in the solicitation for bids, was reasonable and a significant factor in determining the yield on the Agreement.

We understand that the representations contained herein will be relied upon by the Port, for purposes of determining compliance with the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

[PROVIDER]

By:_____
Name:
Title:

ADMINISTRATIVE COSTS PAID IN CONNECTION WITH FORWARD PURCHASE AGREEMENT

Purpose	Amount

ATTACHMENT C

(LETTERHEAD OF OUTSIDE COUNSEL TO PROVIDER)

_____, 1996

Port Commission of the City and County
of San Francisco
Ferry Building, Suite 3100
San Francisco, CA 94111

Union Bank
350 California Street, Suite 1150
San Francisco, CA 94104

Re: Forward Purchase Agreement, dated _____ __, 1996, Relating to the Reserve Fund for the Port Commission of the City and County of San Francisco Revenue Refunding Bonds, Series 1994

Ladies and Gentlemen:

We have acted as counsel to [Provider] (the "Provider") in connection with its execution and delivery of the Forward Purchase Agreement, dated as of _____, 1996 (the "Forward Purchase Agreement"), by and between Union Bank, as Trustee ("Trustee") and Provider. Capitalized terms used herein and not defined herein have the respective meaning given to them in the Forward Purchase Agreement.

In rendering this opinion, we have examined, among other things, copies of the Forward Purchase Agreement and the Indenture.

In connection with the foregoing, we have also examined originals or copies satisfactory to us of all such corporate records, agreements, certificates and other documents as we have deemed relevant and necessary as a basis for the opinions hereinafter expressed. In such examination we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity with the original documents of all documents submitted to us as copies.

In giving the opinions expressed below we do not purport to be expert in or generally familiar with or qualified to express legal opinions based on the laws of any jurisdiction other than federal laws, the laws of the State of California and the General Corporation Law of the State of California and opinions expressed herein are limited to federal law, the laws of the State of California and the General Corporation Law of the State of California.

Based upon the foregoing examination and review, we are of the opinion that:

(i) [Provider] has full legal right, power and authority to enter into the Forward Purchase Agreement;

(ii) The Forward Purchase Agreement has been duly authorized, executed and delivered by [Provider];

(iii) The Forward Purchase Agreement is a legal, valid and binding obligation of [Provider], enforceable against it in accordance with the terms thereof, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity; and

(iv) In the event of a bankruptcy, receivership, conservatorship, liquidation or other applicable insolvency proceeding of which the Provider is the subject, under the laws of the applicable jurisdiction(s), (a) neither the Government Obligations delivered to the Trustee nor the other funds on deposit in the Reserve Fund would constitute property of the estate of the Provider in such proceeding, (b) neither the liquidation of the Government Obligations nor payments to the Owners of the Bonds from amounts in the Reserve Fund including proceeds from the sale of Government Obligations, would be subject to a stay (other than a temporary stay), (c) payments to the Owners of the Bonds from amounts in the Reserve Fund, including proceeds from the sale of Government Obligations, would not be voidable in such proceeding, [and (d) if the Provider is an insured depository institution, the Agreement complies with the requirements of Section 13(e) of the Federal Deposit Insurance Act, as amended (the "FDIA") and is a "qualified financial contract" within the meaning of Section 11(e) of FDIA.]

We are furnishing this opinion to you solely for your benefit and no other person is entitled to rely hereon. This opinion is not to be used, circulated, quoted or otherwise referred to for any other purpose.

Very truly yours,

ATTACHMENT D

DEBT SERVICE RESERVE FUND FORWARD PURCHASE AGREEMENT

This Forward Purchase Agreement (this "Agreement"), dated as of _____, 1996, among Union Bank, San Francisco, California, (the "Trustee"), the Port Commission of the City and County of San Francisco (the "Port") and _____ (the "Provider").

SECTION I. DEFINITIONS

For purposes of this Agreement, unless the context clearly indicates otherwise, the words and terms defined in this Section I have the respective meanings given to them herein or in the Indenture:

"Available Amount" means, at any time, amounts on deposit in the Reserve Fund from time to time in amounts no more than the Notional Amount.

"Bond Payment Date" means each date on which principal and/or interest on the Bonds is due under the Indenture and identified as a "Bond Payment Date" on Exhibit A unless such date is not a Business Day, in which case "Bond Payment Date" means the immediately succeeding Business Day.

"Bonds" means collectively the Port's Revenue Refunding Bonds, Series 1994, and any other Bonds as defined under the Indenture.

"Business Day" shall mean, unless otherwise specified by the Indenture, any day of the week other than Saturday, Sunday or a day which shall be, in the State of California, the State of New York or in the jurisdiction in which the Corporate Trust Office of the Trustee or the principal office of the Registrar is located, a legal holiday or a day on which banking institutions are authorized or obligated by law or executive order to close.

"Default Rate" means six-month LIBOR plus 0.5%, as such rate may change on each day it is applied and calculated based on a 365-day year.

"Delivery Date" means the date of delivery of a Qualified Eligible Security as specified in a Delivery Notice, provided that such date with respect to a particular Maturity Date must fall within the period beginning on the immediately preceding Bond Payment Date and ending on the last Business Day prior to such Maturity Date.

"Delivery Notice" means a notice substantially in the form of Exhibit E or in such other form as provided by the Provider or Qualified Dealer and is reasonably acceptable to the Trustee.

"Differential" means the amount, if any, by which the Maturity Amount of any Qualified Eligible Security delivered hereunder exceeds the Market Value thereof.

"Early Maturing QES" means any sold and delivered Qualified Eligible Security that either matures or has a coupon payment between its Delivery Date and before the next Bond Payment Date.

"Fee Amount" means the amounts as set forth in Exhibit B.

"Federal Funds Rate" means the overnight Federal Funds rate available to the Trustee, as such rate may change on each day it is applied and calculated based on a 365-day year.

"Government Obligation" means direct, full faith and credit, non-callable obligations of the United States of America. Government Obligations shall be limited to (i) direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America, (ii) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (iii) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (iv) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

"Indenture" means the Indenture of Trust, dated as of June 1, 1994, as supplemented by the First Supplemental Indenture of Trust, dated as of June 1, 1994 (collectively, the "Indenture"), each by and between the Port and the Trustee.

"Insolvent" means (i) the Provider shall (1) commence a voluntary case under the federal bankruptcy laws (as in effect on the date of this Agreement or hereafter), (2) file a petition seeking to take advantage of any other law, relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, (3) consent to any petition filed against it in an involuntary case under such bankruptcy or insolvency or other laws, (4) apply for or consent to the appointment of, or the taking of possession by, a Trustee, receiver, custodian, liquidator or the like for itself or for all or a substantial part of its property, (5) admit in writing its inability to pay, or generally not be paying, its debts as they come due, (6) make a general assignment for the benefit of creditors, or (7) take any official action for the purpose of affecting any of the foregoing; or (ii) a case or other proceeding shall be commenced against Provider, in any court of competent jurisdiction seeking (1) relief under the federal bankruptcy laws (as in effect on the date of this Agreement or hereafter) or under any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, or (2) the appointment of a Trustee, receiver, custodian, liquidator or the like for the Provider, or for all or a substantial part of its property, and any case or proceeding shall continue undismissed and unstayed for a period of sixty (60) consecutive calendar days, or an order granting the relief requested in any such case or proceeding against such party shall be entered and shall remain in effect and unstayed for a period of sixty (60) consecutive days.

"LIBOR" means the rate per annum at which deposits in U.S. Dollars in the amount of $1,000,000 for a period of six months are offered to prime banks in the London interbank market, as reported by REUTERS or such other electronic media service that may replace or substitute for REUTERS, at approximately 11:00 a.m. (London Time) on the working day on which such interest rate is being established and applied hereunder, a "working day" being a Business Day on which dealings in foreign currencies and exchange between lenders may be conducted in London, England.

"Market Value" means with respect to any Qualified Eligible Security delivered hereunder, the market value thereof including accrued interest as specified by the Provider or Qualified Dealer, as the case may be, provided that the Market Value of any such security shall in no event exceed the Maturity Amount thereof.

"Maturity Amount" means, with respect to any Qualified Eligible Security delivered in connection with a Delivery Date, the amount, payable in cash, representing the principal and interest due thereon on the maturity date of that security and on or before the Maturity Date. In calculating the Maturity Amount for any Qualified Eligible Security, the Provider shall not include any earnings received from the reinvestment of any principal or interest payments received by the Trustee between the Delivery Date on which such security was delivered and the applicable Maturity Date.

"Maturity Date" means each date identified as a "Bond Payment Date" on Exhibit A.

"Notional Amount" means $5,361,000, the amount of funds intended to be invested pursuant to this Agreement and expected to be on deposit in the Reserve Fund during the term of this Agreement, except for withdrawals from the Reserve Fund as permitted under the Indenture, provided that such amount may be reduced pursuant to Section 7.6.

"Qualified Dealer" means _____ [to be designated by Provider at time bids are submitted]. Any change to or substitution of the Qualified Dealer designated herein shall be subject to the prior written consent of the Port which consent the Port can withhold in its sole and absolute discretion.

"Qualified Eligible Security" for any Delivery Date means a Government Obligation which shall (i) mature not later than the next Bond Payment Date and (ii) have a Maturity Amount which does not exceed the Notional Amount.

"Qualified Financial Institution" shall mean a bank, insurance company, trust company, national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956, or a dealer in government securities which is recognized as a primary dealer by a Federal Reserve Bank, or other domestic corporation, and whose unsecured obligations or uncollateralized debt obligations have been assigned a long-term debt rating of at least AA, or the equivalent, by Moody's Investors Service, Inc., and Standard & Poor's Ratings Group, respectively.

"Reserve Fund" means the fund created pursuant to Section 5.04 of the Indenture and designated thereunder as the Reserve Fund.

"Settlement Date" means _____, 1996.

"Termination Date" shall be July 1, 20__ [2004 or 2009, to be determined by Port after receipt of bids relating to each date], or such earlier date on which the Agreement is terminated in accordance with its terms.

"Termination Value" means the amount calculated with respect to all or a portion of the Notional Amount as follows:

(i) The Provider shall use best efforts to obtain quotations, as of the date of termination of this Agreement, from at least three leading dealers in United States Government securities, each with a rating on long term debt of AA or better from at least one nationally recognized rating agency, which enter into agreements such as this Agreement (each, a "Dealer") of the amount (which may be positive or negative) that such Dealer would pay or would have paid to the Provider (expressed as a positive amount), or would have been required to be paid by the Provider (expressed as a negative amount), in consideration of the Provider assigning to such Dealer its rights under this Agreement as of the date of termination, assuming this Agreement remained in effect until the Termination Date. Such quotations shall be obtained, to the extent practical, as of the same time on the date of termination or such other date as shall be mutually agreed upon by the Trustee and the Provider.

(ii) The Port shall also obtain up to three quotations in the same manner as described in paragraph (i) above. The Port may elect not to obtain any quotations.

(iii) If more than three such quotations are obtained by the Provider and the Port combined, the highest and lowest quotations shall be disregarded and the Termination Value shall be the arithmetic mean of the remaining quotations.

(iv) If exactly three quotations are obtained, the Termination Value shall be the median quotation.

(v) If the Provider and/or the Port are unable to obtain in the aggregate at least three quotations, the Termination Value shall be the amount, as of the date of termination of this Agreement, as agreed upon in good faith between the Port and the Provider, required to compensate the Port or Provider, as the case may be, for any losses or costs (including loss of bargain and costs of funding but excluding legal fees and other out-of-pocket expenses) that it may incur as a result of the early termination of this Agreement.

SECTION II. PURCHASE AND SALE ARRANGEMENT

Section 2.1 Purchase and Sale of Qualified Eligible Securities.

(a) In consideration of the payment by the Provider of each Fee Amount, Provider may at its option, sell or cause a Qualified Dealer to sell to the Trustee, on any Delivery Date, in accordance with the delivery requirements of Section 2.2 hereof, Qualified Eligible Securities selected by Provider or the Qualified Dealer with an aggregate Maturity Amount no more than the Notional Amount.

(b) As the purchase price for the Qualified Eligible Securities, the Trustee shall, on behalf of the Port, immediately pay to the Provider (the Provider shall be responsible for reimbursing any Qualified Dealers who deliver Qualified Eligible Securities to the Trustee), as applicable, in accordance with Section 2.2(b) hereof, an amount equal to the Maturity Amount thereof. Such purchase shall be solely from the Available Amount. Each delivery of Qualified Eligible Securities to the Trustee shall be in accordance with the delivery requirements set forth in Section 2.2.

(c) The Port and the Trustee acknowledge that if the Available Amount is less than the Notional Amount because of a draw-down of the Reserve Fund as permitted under the Indenture, then the Provider will be compensated as provided under Sections 7.1 and 7.2.

(d) The Provider acknowledges that if, on any Bond Payment Date, the Port has notified the Trustee that it will not be able, or has otherwise failed to transfer sufficient funds to the Trustee, to pay the scheduled interest on, or principal of, any obligation to which the Reserve Fund relates, the Trustee shall be required to purchase Qualified Eligible Securities on such Delivery Date in an amount not to exceed the Available Amount after money has been withdrawn from the Reserve Fund to provide for such shortfall.

In the event the Provider receives a notice pursuant to Section 2.5 that as a result of a withdrawal from the Reserve Fund the Available Amount on deposit in the Reserve Fund is less than the Notional Amount, the Provider shall have the right to offer Qualified Eligible Securities in a Maturity Amount no greater than such Available Amount until notice is received of another Available Amount or that the Available Amount has returned to the Notional Amount. Any compensation due the Provider under Section 7.2 shall accrue only with respect to the difference between the Notional Amount and the Available Amount in accordance with this paragraph.

(e) Neither the Provider nor the Qualified Dealer is required to own any Qualified Eligible Securities at the time of Provider's execution of this Agreement or at any time prior to the respective Delivery Dates thereof. The Qualified Eligible Securities and the interest thereon, will, prior to the delivery thereof to the Trustee, be the sole property of the Provider or Qualified Dealer, and any profit or loss with respect to the holding or sale of any Qualified Eligible Securities delivered hereunder, even if purchased and identified to fulfill Provider's obligations under this Agreement, shall, prior to such delivery, be for the sole account of the Provider or Qualified Dealer.

Section 2.2 Delivery; Payment.

(a) All Qualified Eligible Securities sold and delivered hereunder shall be delivered to the Trustee to the account specified for the Trustee in Section 9.1 hereof, through the Federal Reserve wire transfer system (or, in the absence of such system in the future, in such manner as at the time is generally acceptable for delivery of Qualified Eligible Securities). All Qualified Eligible Securities delivered hereunder shall be in book-entry form only, and delivered to the Trustee on a "delivery versus payment" basis whereby delivery of the Qualified Eligible Security is provided to the Trustee simultaneously with the payment of the Qualified Eligible Securities therefor.

(b) (i) The Provider shall give or cause the Qualified Dealer to give the Trustee at least two (2) Business Days' prior written notice of the delivery of any Qualified Eligible Security. Such notice shall specify the Maturity Date, the Maturity Amount, the applicable Delivery Date, the CUSIP Number and the security to be delivered and shall be in substantially the form of the Delivery Notice. If the Trustee determines that the securities proposed to be sold and delivered by the Provider or the Qualified Dealer are not Qualified Eligible Securities, the Trustee shall immediately notify the Provider and the Port. In no event shall the Trustee purchase or be required to purchase securities which are not Qualified Eligible Securities. Failure of the Trustee to notify Provider that the securities tendered are not Qualified Eligible Securities shall not, however, release the Provider or Qualified Dealer, as applicable, from, or otherwise affect, its obligation to deliver or cause to be delivered only Qualified Eligible Securities.

(ii) Concurrently with the delivery of any Qualified Eligible Security, the Trustee shall pay to the Provider or Qualified Dealer, whichever delivers the Qualified Eligible Security, the Maturity Amount thereof from (and only to the extent of) the then Available Amount.

(iii) All payments to be made hereunder shall be made in immediately available funds from the Reserve Fund by means of a bank or federal funds wire.

Section 2.3 Subsequent and Partial Deliveries.

For any Early Maturing QES, the Trustee shall use the proceeds received from the Early Maturing QES ("Interim Proceeds") to purchase additional Qualified Eligible Securities from the Provider if the Provider (i) notifies the Trustee of its intent to sell Qualified Eligible Securities and (ii) delivers the requisite Delivery Notice to Trustee as provided in Section 2.2(b)(i). All these purchases of Qualified Eligible Securities must conform with all the requirements of this Agreement, including Section 2.2.

The Provider may sell the Port Qualified Eligible Securities with a Maturity Amount equal to a portion of the Notional Amount, and the Provider may cause future sales to the Trustee up to the amount of any available cash in the Reserve Fund after such a sale.

If the Trustee is sold Qualified Eligible Securities pursuant to this Agreement on more than three (3) occasions during the period on and after a Bond Payment Date and before the

succeeding Bond Payment Date, the Provider shall be responsible for payment of any investment charges the Trustee charges the Port for such a transaction. The Provider will reimburse the Port for any such transaction fee upon receiving a notice from the Port of the amount of such fee.

Section 2.4 Late Delivery; Failure to Deliver.

If Provider does not deliver or cause the Qualified Dealer to deliver Qualified Eligible Securities on any Delivery Date or if the securities which are so delivered have a Maturity Amount which is less than the Notional Amount, the Trustee shall invest, in overnight investments until otherwise directed by the Port, an amount equal to the difference between the applicable Notional Amount and the amount of Qualified Eligible Security in a permitted investment as specified in the Indenture that may be liquidated on not more than one day's notice pending any late or further delivery from the Provider or Qualified Dealer prior to the related Bond Payment Date. Upon the Provider's failure to deliver Qualified Eligible Securities, the Trustee shall send written notice to the Port.

No failure on Provider's part to deliver or cause the Qualified Dealer to deliver ^ Qualified Eligible Securities hereunder shall terminate or affect Provider's right to cause future sales of Qualified Eligible Securities in accordance with this Agreement.

Section 2.5 Notice of Withdrawal from Fund.

If at any time the Trustee is required under the Indenture to withdraw any investment or other amounts from the Reserve Fund, including Qualified Eligible Securities, to make a debt service payment, the Trustee shall promptly give oral and written notice thereof to the Provider and shall in such notice specify (i) the amount or investments which are to be withdrawn and (ii) the amount or investments which will be in the Reserve Fund after such withdrawal. If the Reserve Fund is replenished after any amount is withdrawn pursuant to this Section 2.5, the Trustee shall promptly give the Provider oral and written notice of such replenishment and the amount thereof.

Section 2.6 Fee Amount.

In consideration of the execution of this Agreement by the Trustee, the Provider shall pay to the Trustee for the account of the Port, the Fee Amounts as set forth in Exhibit B. These Fee Amounts shall be payable regardless of whether Provider delivers the Qualified Eligible Securities. The Provider shall have no right of set off against the Fee Amount.

Section 2.7 Term of Agreement.

The term of this Agreement shall commence on the Settlement Date and shall end on the Termination Date.

Section 2.8 Trustee Instructed to Comply with Agreement.

The Port hereby instructs the Trustee to comply with the terms of this Agreement in accordance with the Indenture.

SECTION III. DEFEASANCE OR REFUNDING

Section 3.1 Defeasance or Refunding.

The Port shall give Provider at least ten (10) Business Days' prior notice of its intention to defease, redeem or refund the Bonds as provided in the Indenture. The Provider agrees that this Agreement may be transferred at the direction of the Port to a reserve fund for any refunding bonds issued to refund the Bonds and will execute any amendments hereto necessary to reflect changes in the name of the bonds, trustee or similar matters hereunder. Any decrease in the Notional Amount as a result of such transfer shall be subject to Section 7.6, with Termination Value relating to such decrease resulting in payments to the Provider or the Port, as applicable.

SECTION IV. REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties.

Each party hereto represents and warrants to the other parties hereto that:

(a) it is duly organized and validly existing under the laws of its jurisdiction, or state of incorporation or establishment;

(b) it has the power to enter into and perform, its obligations under this Agreement including, if it is the Provider, to pay all the Fee Amounts and, if it is the Trustee or the Port, to perform its obligations under the Indenture;

(c) this Agreement has been duly authorized, executed and delivered by it and, assuming the due authorization, execution and delivery hereof by the other parties hereto, constitutes a legal, valid and binding obligation of it enforceable against it in accordance with the terms hereof, subject to applicable bankruptcy, insolvency, conservatorship, receivership and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law;

(d) its execution and delivery of this Agreement and its performance of its obligations hereunder do not and will not constitute or result in a material default under, a material breach or violation of, or the creation of any lien or encumbrance on any of its property under, its charter or by-laws, or, in the case of the Provider, any other agreement, instrument, judgment, injunction or order applicable to it or any of its property;

(e) all consents, authorizations and approvals requisite for its execution, delivery and performance of this Agreement have been obtained and remain in full force and effect and all

conditions thereof have been duly complied with and no other action by, and no notice to or filing with, any governmental authority or regulatory body is required for such execution, delivery or performance;

(f) there is no proceeding pending or, to the best of its knowledge, threatened against it at law or in equity or before any governmental instrumentality or in any arbitration, which would materially impair its ability to perform its obligations under this Agreement, and there is no such proceeding pending against it which purports or is likely to affect the legality, validity or enforceability of the Agreement;

(g) in the case of the Port and the Trustee only, the provisions of the Indenture with respect to it are legal, valid and binding obligations, enforceable against it in accordance with the terms thereof, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law); and

(h) in the case of the Port only, the amounts on Exhibit A correspond to the expected Available Amounts on deposit in the Reserve Fund on the dates shown, except in the event of a withdrawal from the Reserve Fund as permitted by the Indenture.

SECTION V. COVENANTS

Section 5.1 Covenants.

The Provider, the Port and the Trustee each covenants to each other that so long as it shall have any obligations under this Agreement it shall:

(a) maintain in full force and effect all material authorizations and agreements of and exemptions, consents, licenses, actions or approvals by, and all filings with or notices to, any governmental or other authority that are required to be obtained or made by such party, with respect to this Agreement and will use all reasonable efforts to obtain or make any that may become necessary in the future;

(b) comply in all material respects with all applicable laws, rules, regulations and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement;

(c) give the other parties hereto prompt notice of any legal proceedings pending against such party which, if adversely determined would affect the legality, validity or enforceability of this Agreement, or with respect to the Trustee, would in its judgment materially impair its ability to perform its obligations under this Agreement; and

(d) not take any action that would cause any of the representations and warranties contained in Section 4.1 hereof to be untrue or incorrect in any material respect.

Section 5.2 Notice by Provider to Port and Trustee of Downgrade of Provider.

The Provider shall give notice within one (1) Business Day by telephone followed by facsimile transmission or other written notice of the downgrade of the credit ratings of the Provider.

SECTION VI. CONDITIONS PRECEDENT

Section 6.1 Conditions Precedent to Performance.

Performance of the obligations hereunder are conditioned upon (i) delivery of the legal opinions, in substantially the forms contained in Exhibits C, D and E hereto and (ii) payment by Provider to the Trustee for the account of Port of the Fee Amount required to be paid upon the Settlement Date.

SECTION VII. DEFAULTS; TERMINATION

Section 7.1 Failure to Purchase.

If the Trustee shall fail to purchase any Qualified Eligible Security delivered pursuant to the terms of this Agreement by the Provider or the Qualified Dealer at the Maturity Amount thereof on any Delivery Date (or on any later date such securities are delivered as permitted under this Agreement) upon due tender of such Qualified Eligible Security in accordance with the provisions of this Agreement, and such failure to purchase the Qualified Eligible Security shall have continued for a period of five (5) Business Days after written notice of such failure is given to the Trustee and the Port by the Provider, the Provider shall (i) resell to any other third party purchaser in an arm's length transaction, at then-current fair market value, all of the Qualified Eligible Securities for the relevant Delivery Date which have not theretofore been purchased by the Trustee in accordance with Section 7.2 and (ii) at any time prior to resale of all of such Qualified Eligible Securities, tender the Qualified Eligible Securities to the Trustee for purchase on any subsequent Business Day prior to the Maturity Date relating to such delivery and purchase upon notice from the Trustee that cash for the purchase of Qualified Eligible Securities is then on deposit in the Reserve Fund. Provider shall diligently pursue the resale of the Qualified Eligible Security. Provider shall use its best efforts to obtain at least three fair market bids and shall sell the securities in an arms-length transaction to the highest bidder. For purposes of determining the cash available in the Reserve Fund for purchase of Qualified Eligible Securities on a Delivery Date, cash in the Reserve Fund equal to the Maturity Amount of any Qualified Eligible Securities which are resold to a third-party shall be deemed to be unavailable for any further purchases hereunder until the Maturity Date of such securities would have occurred. Under the above-described circumstances, the Provider shall have the right to make demand for payment of damages under Section 7.2 or, if permitted by the terms hereof, terminate this Agreement as specified in Sections 7.4 and 7.5. Damages under Section 7.2 shall be limited to the difference between the Notional Amount and the Available Amount in accordance with Section 2.1(d).

In the event of a failure to purchase all or any portion of the Qualified Eligible Securities on any date as a result of a draw of funds on the Reserve Fund to pay principal and interest on the Bonds, this Agreement shall remain in full force and effect for a period of one year from such date (provided that the Port's rights under Section 7.6 are not intended to be affected by this paragraph). If one year after such date the Port has failed to restore the Reserve Fund to the Notional Amount, then this Agreement shall terminate as to the difference between the Notional Amount and the Available Amount as of the end of such one-year period. In the event of such termination, the Termination Value shall be payable by the Port to the Provider or the Provider to Port, as applicable.

Section 7.2 Effect of Failure to Purchase.

If the failure to purchase the Qualified Eligible Securities is a result of the negligence or willful misconduct of the Trustee, the Trustee shall pay the Provider, as gross liquidated damages and not as a penalty, on demand, an amount equal to (a) ^ (b) or (c) below, as applicable. The Trustee shall not be reimbursed by the Port for any of the foregoing damages. If the failure to purchase the Qualified Eligible Securities is a result of a decrease in the Available Amount below the Notional Amount because of a withdrawal of amounts from the Reserve Fund pursuant to the Indenture, the Port shall pay the Provider, as gross liquidated damages and not as a penalty, on demand, an amount equal to (a) ^ (b) or (c) below, as applicable.

(a) Liquidated damages for failure to purchase a Qualified Eligible Security for ^ one (1) Business ^ Day are calculated as follows: an amount equal to interest at the ^ Federal Funds Rate on the Maturity Amount of the Qualified Eligible Securities delivered by the Provider or the Qualified Dealer, but not purchased by, the Trustee for each day from and including the Delivery Date ^ to but excluding the date on which ^ securities are sold to the Trustee (inclusive of any non-Business Days occurring within such period).

(b) Liquidated damages for failure to purchase a Qualified Eligible Security for more than one (1) Business Day and up to five (5) Business Days or less are calculated as follows: an amount equal to interest at the Default Rate on the Maturity Amount of the Qualified Eligible Securities delivered by the Provider or the Qualified Dealer, but not purchased by, the Trustee for each day from and including the Delivery Date thereof to but excluding the date on which such securities are sold to the Trustee (inclusive of any non-Business Days occurring within such period).

^(c) Liquidated damages for failure to purchase a Qualified Eligible Security for more than five Business Days are calculated as follows: the sum of (w) an amount equal to interest at the Default Rate on the Maturity Amount of the Qualified Eligible Securities delivered by the Provider or the Qualified Dealer, but was not purchased by, the Trustee for five (5) Business Days (inclusive of any non-Business Days occurring within such period) after a Delivery Date (including such Delivery Date), and (x) the excess, if any, of the Maturity Amount of such Qualified Eligible Securities over the amount received by the Provider upon the resale of the securities.

The Provider shall not be entitled to reimbursement of any incidental costs or expenses in addition to the liquidated damages provided for in paragraphs (a) ^, (b) and (c) above.

The liquidated damages described in paragraphs (a) ^, (b) and (c) above shall be due and payable within thirty (30) Business Days of being incurred. After thirty (30) Business Days, such liquidated damages shall begin accruing interest at the Default Rate. If liquidated damages are paid in accordance with this Section 7.2, there shall not be deemed to have been an event of default hereunder as a result of the circumstances giving rise to such payments, on behalf of the Port or the Trustee, as appropriate.

Section 7.3 Default by Provider.

If any of the following events occur:

(a) the Provider fails to pay when due any Fee Amount (provided that Provider shall have 5 days to cure a late payment of the Fee Amount, with interest on the Fee Amount payable by the Provider to the Port at the Default Rate during such period);

(b) the Provider breaches any other material covenant or agreement of the Provider contained herein and such breach continues for a period of thirty (30) calendar days after notice of such breach is given to the Provider by the Trustee or the Port;

(c) the Provider becomes Insolvent;

(d) any representation or warranty of the Provider contained in this Agreement proves to have been incorrect, false or misleading in a material respect as of the date on which it was made;

(e) the legal opinion of the Provider is rendered materially incorrect as a result of a change in law or regulation or any published court decision having a material adverse impact on the Port, and a substitute legal opinion, reasonably satisfactory to the Port, is not delivered within thirty (30) calendar days after notice of such occurrence is provided to the Provider by the Trustee; or

(f) the Provider is not a Qualified Financial Institution;

then, in each such case, the Port may, at its option, do any of the following (provided that the Provider shall have the right to attempt to cure a default described under clause (f) above by assigning the Agreement to a Qualified Financial Institution within 30 days from the date the original Provider ceases to be a Qualified Financial Institution, subject to Section 9.2);

(i) terminate this Agreement, provided that the Termination Value, if payable to the Port, shall be immediately due and payable by Provider, and if payable to Provider, shall be deemed to be zero; or

(ii) leave this Agreement in force and effect and pursue any other remedy available to the Trustee at law or in equity, including a suit for damages or specific performance.

Section 7.4 Trustee Events of Default.

If any of the following events occur:

(a) the Trustee breaches any material covenant or agreement of the Trustee contained herein and such breach continues for a period of thirty (30) calendar days after written notice of such breach is given to the Trustee and the Port by the Provider; or

(b) any representation or warranty of the Trustee contained in this Agreement proves to have been incorrect, false or misleading in any material respect as of the date on which it was made;

then, in each such case in addition to the remedies provided in Section 7.2, the Provider may, at its option, elect to terminate this Agreement, provided that the Termination Value, if payable to the Provider shall be immediately due and payable to the Provider by the Trustee (under no circumstances shall the Port be obligated to pay any Termination Value due to an event of default on behalf of the Trustee as described in paragraphs (a) and (b) above), or if payable to the Port shall be deemed to be zero.

Anything herein to the contrary notwithstanding, prior to making any election to terminate this Agreement due to any event of default described in clause (a) or (b) above, Provider shall provide Port with written notice of its intention to terminate this Agreement, and an opportunity to cure such default within ninety (90) days of such notice, including but not limited to, by substituting the Trustee, performing the duties of the Trustee and/or taking such other action as Port deems necessary or appropriate. If the Port cures the default within the 90-day period, this Agreement shall not be subject to termination at the option of the Provider.

Section 7.5 Port Events of Default.

If any of the following events occur:

(a) the Port breaches any material covenant or agreement of the Port contained herein and such breach continues for a period of thirty (30) calendar days after written notice of such breach is given to the Port by the Provider; or

(b) any representation or warranty of the Port contained in this Agreement proves to have been incorrect, false or misleading in any material respect as of the date on which it was made;

then, in each such case in addition to the remedies provided in Section 7.2, the Provider may, at its option, elect to terminate this Agreement, provided that the Termination Value, if payable to the Provider, shall be immediately due and payable by the Port, and if payable to the Port shall be deemed to be zero.

Anything herein to the contrary notwithstanding, prior to making any election to terminate this Agreement due to any event of default described in clause (a) or (b) above, Provider shall provide Port with written notice of its intention to terminate this Agreement, and an opportunity to cure such default within ninety (90) days of such notice. If the Port cures the default within the 90-day period, this Agreement shall not be subject to termination at the option of the Provider.

Section 7.6 Optional Termination by Port.

The Port may terminate this Agreement in its entirety or with respect to a portion of the Notional Amount at its option at any time upon ten (10) days written notice to the Provider. In the event of such termination, the Termination Value shall be payable by Port to Provider or Provider to Port, as applicable. The Port shall pay a termination fee to the Provider in connection with a termination pursuant to this Section 7.6 equal to 0.02% (2 "basis points") of the Notional Amount to be terminated. Immediately upon the payment of the Termination Value, this Agreement shall be deemed to have terminated in full or with respect to a portion of the Notional Amount, if applicable. If the optional termination of the Agreement would result in the payment of the Termination Value to the Provider, the Port shall not terminate this Agreement pursuant to this Section 7.6 unless the Port has first certified that there is a valid appropriation from which the expenditure may be made for the payment of the Termination Value.

Section 7.7 Limitations on Port's Financial Obligation.

Notwithstanding anything herein to the contrary, the City and County of San Francisco shall not be required to advance any moneys derived from the proceeds of any taxes levied or collected by the City and County of San Francisco or from any source other than Net Revenues for the payment of any obligations of the Port hereunder. The General Fund and other enterprise funds of the City and County of San Francisco are not liable, and the credit and taxing power of the City and County of San Francisco is not pledged or otherwise available, to pay any amounts due from the Port hereunder. Neither the Provider nor the Trustee shall have the right to compel the exercise of the taxing power of the City and County of San Francisco or the forfeiture of any Trustee or Port or City and County of San Francisco property. The obligations of the Port hereunder shall not be a debt of the City and County of San Francisco, nor have a legal or equitable pledge, charge, lien or encumbrance upon any property or funds of the City and County of San Francisco or any of its income or revenues other than the Net Revenues.

Notwithstanding any provision of this Agreement, the Port's obligation to pay the Termination Value shall be contingent upon the Port obtaining a valid appropriation to pay the expenditure. Neither the Port nor the City shall have any obligation to appropriate any funds to cover any portion of the Termination Value hereunder. Until an appropriation has been made for the payment of the Termination Value, the Executive Director of the Port shall include the Termination Value in the proposed annual budget of the Port for each fiscal year. Notwithstanding such inclusion in the budget, the Mayor, the Board of Supervisors and the Port Commission retain their discretion to approve or disapprove the appropriation. In connection with the repayment of the Termination Value, the Provider may exercise any and all rights and

remedies otherwise granted by law. **THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.**

Section 7.8 Limited Rights Against the Reserve Fund.

Provider shall not have any right to any amounts held in the Reserve Fund except as expressly provided herein upon the delivery of a Qualified Eligible Security in accordance with this Agreement. Provider acknowledges and agrees that it has no lien upon or claim against the securities and amounts held in the Reserve Fund.

Section 7.9 No Waiver; Remedies Cumulative.

No failure or delay on Provider's or Trustee's part in exercising any right or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof of the exercise of any other right or remedy. The rights and remedies of the Provider, the Port and Trustee hereunder are cumulative and not exclusive to any rights or remedies provided by law, this Agreement, or otherwise. None of the terms or provisions of this Agreement may be waived, modified or amended except in writing duly signed by the Trustee, the Port and Provider.

SECTION VIII. THE TRUSTEE

Section 8.1 Acceptance by Trustee.

By execution and delivery of this Agreement, the Trustee accepts its duties and obligations hereunder.

Section 8.2 Liability of the Trustee; Consultation with Legal Counsel.

(a) The Trustee shall not be liable to Provider for any action taken or not taken in performing or attempting to perform its obligations hereunder or preserving or seeking to preserve the funds it maintains under the Indenture or to purchase the Qualified Eligible Security tendered pursuant to this Agreement, except for actions or failure to act arising from its negligence or willful misconduct.

(b) The Trustee may consult with its counsel or other counsel satisfactory to it with respect to any question relating to its duties or responsibilities hereunder or otherwise in connection herewith and, except as expressly provided herein, shall not be liable for any action taken, suffered, or omitted by the Trustee in good faith upon the advice of such counsel. The Trustee may act through its officers, employees, agents and attorneys.

Section 8.3 Payment Obligations of Trustee.

The Trustee's payment obligations for Qualified Eligible Securities under Section II shall be paid solely from funds available under the Indenture in the Reserve Fund, as applicable.

Section 8.4 Payment of Trustee Fees.

Except as provided in Section 2.3, the Provider has no liability or responsibility for payment of the Trustee's fees or expenses for its services hereunder, including any such fees or expenses arising out of or in connection with the liquidation of the Qualified Eligible Securities.

Section 8.5 Port and Trustee Cooperation.

(a) The Trustee shall not act in contravention of its obligations hereunder or invest amounts in the Reserve Fund other than pursuant to this Agreement and in accordance with the Indenture.

(b) The Trustee shall not, nor shall the Port direct the Trustee to, make any payments or distributions from the Reserve Fund other than payments or distributions (i) to pay principal of, redemption premium and interest on the Bonds, and any other payments required or permitted by the Indenture (including transfers of amounts in excess of the reserve requirement), and (ii) as required by this Agreement and in accordance with the Indenture.

Section 8.6 Successor Trustee.

If the Trustee shall resign or be discharged from its duties and obligations under the Indenture, the Port shall appoint a successor Trustee pursuant to the terms of the Indenture.

Section 8.7 Trustee Capacity.

Provider acknowledges that Trustee is entering into this Agreement at the direction of the Port, solely in its capacity pursuant to the Indenture. All references herein to the Trustee refer solely to such capacity.

SECTION IX. MISCELLANEOUS

Section 9.1 Notices.

All notices, demands or other communications hereunder shall be given or made in writing and shall be delivered personally, or sent by certified or registered mail, postage prepaid, return receipt requested, or overnight delivery service, telex or telecopy to the party to whom they are directed at the following addressees, or at such other address as shall have been later specified in written notice by such party to all other parties:

To Provider:

Attention:
Telephone:
Telecopy:
Account Name and Number:
Bank Name:
ABA#:
Account Name:
Account #:
Further Credit to:#:

To Qualified Dealer:

Attention:
Telephone:
Telecopy:
Account Name and Number:
Bank Name:
ABA#:
Account Name:
Account #:
Further Credit to:#:

To the Trustee:

Attention:
Telephone:
Telecopy:
Account Name and Number:
Bank Name:
ABA#:
Account Name:
Account #:
Further Credit to:#:

For Delivery of Book Entry Qualified Eligible Securities:

Federal Reserve Bank of New York
ABA #021-200-025
First Fidelity NWK/Trust

To the Port:

Attention: Monique Moyer, Finance Manager
Telephone: (415) 274-0442
Telecopy: (415) 274-0630
Port of San Francisco
Ferry Building, Room 3100
San Francisco, CA 94111

Any notice, demand or other communication given in a manner prescribed in this Section shall be deemed to have been delivered upon receipt.

Section 9.2 Binding Effect; Assignment.

This Agreement shall be binding upon the Trustee, the Port and Provider and upon their respective permitted successors and transferees. The Provider shall not assign any of its rights or obligations under this Agreement without first obtaining the prior written consent of the Port, which consent can be withheld in its sole and absolute discretion. The Port shall be compensated for its expenses in connection with any assignment to which it may have consented, including but not limited to any fees of attorneys and financial advisors. Any unconsented assignment shall be voidable and, in such event, the Trustee shall terminate this Agreement upon the written request of the Port, with any Termination Value payable to the Port becoming immediately due and payable, but with any Termination Value allocable to the Provider deemed to be zero. The Trustee, in its capacity as Trustee, may be substituted from time to time pursuant to the Indenture.

Section 9.3 Limitation.

Nothing expressed or implied herein is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto, any right, remedy or claim by reason of this Agreement or any term hereof, and all terms contained herein shall be for the sole and exclusive benefit of the parties hereto, and their successors and permitted transferees.

Section 9.4 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to conflict of law principles.

Section 9.5 Counterparts.

This Agreement may be executed in one or more counterparts and when each party hereto has executed at least one counterpart, this Agreement shall become binding on all parties and such counterparts shall be deemed to be one and the same document.

Section 9.6 Severability.

If one or more provisions of this Agreement or the applicability of any such provisions to any set of circumstances shall be determined to be invalid or ineffective for any reason, such determination shall not affect the validity and enforceability of the remaining provisions or the applicability of the same provisions or any of the remaining provisions to other circumstances.

Section 9.7 Amendments, Changes and Modifications.

This Agreement may be amended or any of its terms modified only by a written agreement authorized, executed and delivered by each of the parties hereto.

Section 9.8 Inspection of Records.

The Provider agrees that the Port (or its agent) may inspect and copy, at all reasonable hours, the Provider's books and records as they directly pertain to this Agreement. Except as otherwise provided by law, the Port (or its agent) will not release or divulge any proprietary information derived from such inspection to third parties without the approval of the Provider. All such books and records shall be maintained and/or made available for five (5) years after the end of the Agreement.

Section 9.9 Notice to Provider of Amendment to Indenture. The Port agrees to give notice to the Provider in advance of any amendment or supplement to the Indenture.

Section 9.10 MacBride Principles--Northern Ireland. The City and County of San Francisco (the "City") urges companies doing business in Northern Ireland to move towards resolving employment inequities and encourages such companies to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 *et seq.* The City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. The Provider and Trustee each acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

Section 9.11 Tropical Hardwood Ban. The City urges companies not to import, purchase, obtain or use, for any purpose, any tropical hardwood or any tropical hardwood product.

Section 9.12 Burma (Myanmar) Business Prohibition.

(a) Provider and Trustee are not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in Section 121.2(G) of the San Francisco Administrative Code. The Port reserves the right to terminate this Agreement for default if Provider violates the terms of this Section 9.12. The Port reserves the right to replace the Trustee if the Trustee violates the terms of this Section 9.12.

(b) Chapter 12J of the San Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein. The failure of either the Provider or the Trustee to comply with any of its requirements shall be deemed a material breach of this Agreement by the defaulting party. In the event that the Provider or the Trustee fails to comply in good faith with any of the provisions of Chapter 12J of the San Francisco Administrative Code, the defaulting party shall by liable for liquidated damages for each violation in an amount equal to the defaulting party's net profit under this Agreement, or 10% of the total amount of this Agreement, or $1,000, whichever is greatest. Provider and Trustee each acknowledges and agrees that the liquidated damages assessed against them shall be payable to the Port upon demand and may be set off against any moneys due to the defaulting party from any Port contract.

Section 9.13 Trustee's Right of Termination. Any right of termination of the Trustee may be exercised by the Port.

IN WITNESS WHEREOF, the Trustee, the Port and the Provider have caused this Forward Purchase Agreement to be executed by their respective duly authorized officers, all as of the date and year first above written.

[PROVIDER]

By: _____
Name:
Title:

UNION BANK

By: _____
Name:
Title:

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

By: _____
Name:
Title:

APPROVED AS TO FORM:

Louise H. Renne
City Attorney

By: _____
Victor L. Castillo
Deputy City Attorney

EXHIBIT A

Cash Flow Schedule

Delivery Date	Expected Available Amount	Bond Payment Date
7/1/96	$5,361,000.00	1/1/97
1/1/97	5,361,000.00	7/1/97
7/1/97	5,361,000.00	1/1/98
1/1/98	5,361,000.00	7/1/98
7/1/98	5,361,000.00	1/1/99
1/1/99	5,361,000.00	7/1/99
7/1/99	5,361,000.00	1/1/00
1/1/00	5,361,000.00	7/1/00
7/1/00	5,361,000.00	1/1/01
1/1/01	5,361,000.00	7/1/01
7/1/01	5,361,000.00	1/1/02
1/1/02	5,361,000.00	7/1/02
7/1/02	5,361,000.00	1/1/03
1/1/03	5,361,000.00	7/1/03
7/1/03	5,361,000.00	1/1/04
1/1/04	5,361,000.00	7/1/04
7/1/04	5,361,000.00	1/1/05
1/1/05	5,361,000.00	7/1/05
7/1/05	5,361,000.00	1/1/06
1/1/06	5,361,000.00	7/1/06
7/1/06	5,361,000.00	1/1/07
1/1/07	5,361,000.00	7/1/07
7/1/07	5,361,000.00	1/1/08
1/1/08	5,361,000.00	7/1/08
7/1/08	5,361,000.00	1/1/09
1/1/09	5,361,000.00	7/1/09

EXHIBIT B

Payment Schedule

Delivery Date	Fee Amount
-/-/96	
1/1/97	
7/1/97	
1/1/98	
7/1/98	
1/1/99	
7/1/99	
1/1/00	
7/1/00	
1/1/01	
7/1/01	
1/1/02	
7/1/02	
1/1/03	
7/1/03	
1/1/04	
7/1/04	
1/1/05	
7/1/05	
1/1/06	
7/1/06	
1/1/07	
7/1/07	
1/1/08	
7/1/08	
1/1/09	

EXHIBIT C

(LETTERHEAD OF COUNSEL TO TRUSTEE)

_____, 1996

Port Commission of the
City and County of San Francisco
Ferry Building, Room 3100
San Francisco, California 94111

[Name of Provider]

Re: Forward Purchase Agreement, dated _____ __, 1996, Relating to the Reserve Fund for the Port Commission of the City and County of San Francisco Revenue Refunding Bonds, Series 1994

Ladies and Gentlemen:

We have acted as counsel for Union Bank, as Trustee (the "Trustee"), in connection with the transactions contemplated by a Forward Purchase Agreement, dated as of _____, 1996 (the "Agreement"), by and among the Trustee, the Port Commission of the City and County of San Francisco (the "Port") and _____ ("Provider") relating to the investment of certain assets held by the Trustee pursuant to the Indenture of Trust, as supplemented by the First Supplemental Indenture of Trust, each dated as of June 1, 1994, by and between the Trustee and the Port (the "Indenture"). Unless otherwise defined herein or unless the context otherwise requires, terms defined in the Indenture shall have the same meanings herein.

We have examined an original or copy of the Indenture and the Agreement. In addition, we have examined such records, documents, instruments, certificates of public officials and of the Trustee, and considered such questions of law as we have deemed necessary for the purpose of rendering the opinions set forth herein. We have assumed the genuineness of all signatures other than those of the Trustee and the authenticity of all items submitted to us as originals and the conformity with originals of all items submitted to us as copies. In making our examination of the Indenture and the Agreement, we have assumed that each party to such document other than the Trustee has the power to enter into and perform its obligations thereunder, has duly authorized, executed and delivered such document, and that such document constitutes the legal, valid and binding obligations of such party. As to the genuineness of the Trustee's signature and the authority of any person to execute and deliver any document on the Trustee's behalf, we have relied solely on an incumbency certificate received from the Trustee and have made no independent investigation as to the accuracy of such certificate.

We express no opinion as to the perfection or priority of any security interest or lien created by the Indenture or the Agreement or as to the effect of any federal or state securities laws.

Our opinion in paragraph 1 below is based solely upon certificates of public officials of the United States and officers of the Trustee. We have made no independent investigation as to whether those certificates are accurate or complete.

The opinions hereinafter expressed are subject to the following further qualifications:

(a) The effect of bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights of creditors generally, including, without limitation, laws relating to fraudulent transfers or conveyances, preferences and equitable subordination.

(b) Limitations imposed by general principles of equity upon the availability of equitable remedies or the enforcement of provisions of the Indenture, and the effect of judicial decisions which have held that certain provisions are unenforceable where their enforcement would violate the implied covenant of good faith and fair dealing, or would be commercially unreasonable.

Based upon and subject to the foregoing, we are of the opinion that:

1. The Trustee is a national banking association with trust powers, duly created and lawfully existing under the laws of the United States of America.

2. The Trustee has all necessary legal right, power and authority to enter into the Agreement.

3. The Agreement has been duly executed and delivered by the Trustee and constitutes the valid and binding agreement of the Trustee, enforceable against the Trustee in accordance with its terms.

4. The execution and delivery of the Agreement by the Trustee and the performance of the Trustee's obligations thereunder do not constitute or result in a breach or violation of the Trustee's article of association, its bylaws or the Indenture.

We express no opinion as to matters governed by any laws other than the substantive laws of the State of California and federal laws of the United States of America which are in effect on the date hereof.

This opinion is solely for your benefit and may not be relied on by, nor may copies be delivered to, any other person without prior written consent.

Respectfully submitted,

EXHIBIT D

[see Attachment C]

EXHIBIT E

(LETTERHEAD OF COUNSEL TO ISSUER)

_____, 1996

Union Bank
350 California Street, Suite 1150
San Francisco, CA

[Provider]

Re: Forward Purchase Agreement, dated _____ __, 1996, Relating to the Reserve Fund for the Port Commission of the City and County of San Francisco Revenue Refunding Bonds, Series 1994

Ladies and Gentlemen:

We have acted as counsel to the Port Commission of the City and County of San Francisco (the "Port") in connection with its execution and delivery of the Forward Purchase Agreement, dated as of _____, 1996 (the "Agreement"), by and among _____ ("Provider"), Union Bank, as Trustee and the Port and the Indenture of Trust, as supplemented by the First Supplemental Indenture of Trust, each dated as of June 1, 1994, by and between the Trustee and the Port (collectively, the "Indenture"). Capitalized terms used herein and not defined herein have the respective meaning given to them in the Agreement.

In rendering this opinion, we have examined, among other things, copies of the Agreement and the Indenture.

In connection with the foregoing, we have also examined originals or copies satisfactory to us of all such corporate records, agreement, certificates and other documents as we have deemed relevant and necessary as a basis for the opinions hereinafter expressed. In such examination we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity with the original documents of all documents submitted to us as copies.

In giving the opinions expressed below we do not purport to be expert in or generally familiar with or qualified to express legal opinions based on the laws of any jurisdiction other than the laws of the State of California (the "State").

Based upon the foregoing examination and review, we are of the opinion that:

(i) The Port has full legal right, power and authority to enter into the Agreement and to authorize and direct the Trustee, pursuant to the Agreement, to make purchases of the Qualified Eligible Securities in accordance with the terms therein.

(ii) The Agreement has been duly authorized, executed and delivered by the Port.

(iii) The Agreement and the Indenture are legal, valid and binding obligations of the Port, enforceable against it in accordance with the terms thereof subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject as to enforceability to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(iv) The Port's execution and delivery of the Agreement and the performance of its obligations thereunder do not and will not conflict with or constitute or result in a default under, a breach or violation of, or the creation of any lien or encumbrance on any of its property under the Indenture, or any other agreement, instrument, judgment, injunction or order applicable to it or any of its property.

(v) All consents, authorizations and approvals requisite for the Port's execution and delivery of the Agreement have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental authority or regulatory body is required for such execution and delivery.

We are furnishing this opinion to you solely for your benefit and no other person is entitled to rely hereon. This opinion is not to be used, circulated, quoted or otherwise referred to for any other purpose.

Very truly yours,

EXHIBIT F

FORWARD PURCHASE AGREEMENT
NOTICE OF DELIVERY

[Date of Notice]

Re: Forward Purchase Agreement, dated _____ __, 1996, Relating to Reserve Fund for the Port Commission of the City and County of San Francisco Revenue Refunding Bonds, Series 1994

Union Bank
350 California Street, Suite 1150
San Francisco, California
Attention: _____

Security will be delivered by Provider to the following account:

Federal Reserve Bank of New York
ABA #021-200-025
First Fidelity NWK/Trust

For purchase from funds in Reserve Fund Relating to Above-Captioned Bonds

Date of Delivery: _____

Security	Maturity Date	CUSIP	Amount Due at Maturity ("Maturity Amount")

Purchase Price (same as Maturity Amount)

Market Value = $[ ]
Differential (*i.e.*, Maturity Value less Market Value) = $[ ]

Payment instructions
Purchase Price to be paid follows:

[Account Information]

The undersigned hereby certifies that the foregoing securities are Government Obligations as defined in the above-captioned Forward Purchase Agreement. The undersigned hereby further certifies that all the foregoing securities and the interest thereon is the sole property of [NAME OF PROVIDER OR QUALIFIED DEALER].

_____
Authorized Signatory

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

August 7, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval for one Port representative to attend the 1996 Annual American Association of Port Authorities Convention in Vancouver, British Columbia, in accordance with the FY 96-97 budget.

DIRECTOR'S RECOMMENDATION: APPROVE ATTACHED RESOLUTION

The American Association of Port Authorities will hold its annual convention in Vancouver, British Columbia, on September 16 to September 20, 1996.

This convention will include seminars on various topics of interest to the Port of San Francisco including Port automation trends, funding for infrastructure needs, landside access to Ports, key to Port survival and other areas of benefit. These seminars are typically attended by Port Directors.

The Executive Director seeks approval to have one Port representative attend the annual convention. This request is in accordance with the Port Commission's Fiscal Year 1996/97 budget and the estimated cost of this trip is $2,500.

Prepared by: Dennis P. Bouey

THIS ITEM COVERS CALENDAR ITEM NO. 9A

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-79**

WHEREAS, the Executive Director is requesting authorization for one Port representative to travel to Vancouver, British Columbia, to attend the American Association of Port Authorities Annual Convention on September 16-20, 1996, where various of topics of interest to the Port including Port automation trends, funding for infrastructure needs, landside access to Ports, key to Port survival and other areas of benefit will be discussed; and

WHEREAS, the cost of this trip has been included in the Port Commission's Fiscal Year 1996-97 budget; now, therefore, be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of August 13, 1996.

_____
Secretary

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM
August 6, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: **Approval of Ground Lease, Attornment and Nondisturbance Agreement between Port, Clip Clop III Partners, Ltd. and tenant of Francisco Bay Office Park (SWL 315, 316, 317)**

A portion of the lands comprising of Francisco Bay Office Park (SWL 315, 316 and 317) is leased by Clip Clop III Partners, Ltd. ("Clip Clop") from the Port pursuant to the terms and provisions of a Lease Agreement dated June 28, 1974, originally entered into between the Port and Francisco Bay Office Park, a limited partnership. The lease was amended by the terms and provisions of a First Amendment to Lease dated December 8, 1976, between the Port and Francisco Bay Office Park, and by the terms and provisions of a Second Amendment to Lease dated June 21, 1995, between the Port and HHC Investments, Ltd (collectively, the "Master Lease").

Levi Strauss & Co. ("Levi") plans to enter into a lease with Clip Clop III Partners, Ltd. ("Clip Clop") for a portion of the office space located at Francisco Bay Office Park. Levi would like to have an Attornment and Nondisturbance Agreement ("Agreement") with the Port so that in the event that the Master Lease terminates early, Levi will still be able to maintain its lease.

Levi proposes a five year lease beginning no later than October 1, 1996 with one five-year option to extend. Material provisions of the Agreement include the following:

- The Port will recognize Levi under the terms of the lease between Levi and Clip Clop if the Master Lease ends before its scheduled termination in 2040;

- Levi will recognize the Port as its Landlord under the terms of the lease between Levi and Clip Clop if the Master Lease to Clip Clop ends before its scheduled termination in 2040;

- Should the Port become the Landlord of Levi, the Landlord shall not interfere or otherwise interrupt Tenant in its use and quiet enjoyment of the Premises pursuant to the lease as long as Tenant is current in the payment of all rentals and charges required under the lease and is not otherwise in default;

- The Port shall not be liable for (i) any security or cleaning deposits paid to Clip Clop under the lease, (ii) any rent or additional rent that may have been paid in advance to Clip Clop for a period in excess of one (1) month, or (iii) any act or omission of any prior landlord.

A copy of the proposed Agreement is attached hereto and the Agreement and the proposed lease in on file with the Port Commission Secretary. Port staff believes that approval of this Agreement is necessary for Levi to enter into the lease with Clip Clop.

Prepared by: Kirk Bennett, Acting Director of Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-80

WHEREAS, Charter Section B 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, regulate and control the Port area of San Francisco; and

WHEREAS, The Port entered into a lease with Francisco Bay Office Park, a limited partnership, in 1974; said lease was subsequently assigned to Clip Clop III Partners, Ltd. ("Clip Clop"); and

WHEREAS, Levi Strauss & Co. ("Levi") would like to enter a lease with Clip Clop in the Francisco Bay Office Park Building; and

WHEREAS, Levi has requested assurances that if the Master Lease to Clip Clop ends before its scheduled termination in 2040 that the Port will honor Levi's lease; and

WHEREAS, The Proposed Attornment and Nondisturbance Agreement will provide the necessary assurances to Levi and Levi will recognize the Port as its landlord, and

WHEREAS, It is in the Port's interest to help Clip Clop fill any vacancies and to assist Levi to move into the Francisco Bay Office Park; now, therefore, be it

RESOLVED That the Port Commission approves the Attornment and Nondisturbance Agreement substantially in the form on file with the Port Commission Secretary and authorizes the Executive Director to sign said Agreement.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 13, 1996.

_____
Secretary

I:\COMMIS2.MEM

BLACKLINED

Recording requested by
and when recorded return to:

Hoffman, Finney & Klinedinst
655 Montgomery Street, Suite 1000
San Francisco, CA 94111
Attn: Charles P. Sandel

GROUND LEASE
ATTORNMENT AND NONDISTURBANCE AGREEMENT

THIS GROUND LEASE ATTORNMENT AND NONDISTURBANCE AGREEMENT (this "Agreement") is entered into as of the ___ day of _____, 1996, among LEVI STRAUSS & CO., a Delaware corporation ("Project Tenant"), CLIP CLOP III PARTNERS, LTD., a Colorado limited partnership ("Clip Clop"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating through the San Francisco Port Commission ("Landlord").

RECITALS

A. Clip Clop and Project Tenant are entering into a lease dated _____, 1996 (which together with all addenda, modifications and amendments thereto from time to time is referred to as the "Project Lease"), pursuant to which Project Tenant is leasing from Clip Clop certain premises (the "Premises") comprising a part of the Francisco Bay Office Park in the City and County of San Francisco, State of California.

B. A portion of the lands comprising the Francisco Bay Office Park is leased by Clip Clop from Landlord pursuant to the terms and provisions of a Lease Agreement dated June 28, 1974, originally entered into between Landlord and Francisco Bay Office Park, a limited partnership, a short form of which was recorded on June 28, 1974, in Book B-904, Page 557 of the official records of the City and County of San Francisco, California, as amended by the terms and provisions of a First Amendment to Lease dated December 8, 1976, between Landlord and Francisco Bay Office Park, and by the terms and provisions of a Second Amendment to Lease dated June 21, 1995, between Landlord and HHC Investments, Ltd. (collectively, the "Ground Lease").

C. Landlord has agreed to recognize the Project Lease and the rights of the Project Tenant thereunder in the event that the Ground Lease shall expire or be terminated for any reason.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration received by them, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

1. No Advance Payment of Rent. Project Tenant agrees that it will not pay rent or other charges due under the Project Lease more than one (1) month in advance of the date when the same are due and payable in accordance with the provisions of the Project Lease.

2. Attornment and Nondisturbance. In the event the term of the Ground Lease shall expire, or in the event that the Ground Lease shall be terminated prior to its expiration date for any reason other than condemnation, in either case prior to the expiration or termination of the Project Lease, then:

(a) Project Tenant shall be bound to Landlord under all of the terms, covenants and conditions of the Project Lease for the remaining term thereof, with the same force and effect as if Landlord were the lessor under the Project Lease, and Project Tenant hereby agrees to attorn to Landlord as its lessor, and Landlord agrees to accept such attornment from Project Tenant as its lessee, such attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties to this Agreement, immediately upon Landlord succeeding to the interest of lessor under the Project Lease;

(b) Subject to the observance and performance by Project Tenant of all of the terms, covenants and conditions of the Project Lease to be observed and performed on the part of the Project Tenant, Landlord shall recognize the leasehold estate and all rights of Project Tenant under the Project Lease for the remaining term thereof with the same force and effect as if Landlord were the original lessor under the Project Lease;

(c) Landlord shall not interfere or otherwise interrupt Project Tenant in its use and quiet enjoyment of the Premises pursuant to the Project Lease so long as Project Tenant is current in the payment of all rentals and charges required under the Project Lease and is not otherwise in default under the Project Lease; and

(d) Landlord shall not be liable for (i) any security or cleaning deposits paid to Clip Clop under the Project Lease prior to the expiration or termination of the Ground Lease to the extent that such deposits have not been actually delivered or paid over to Landlord; (ii) any rent or additional rent that may have been paid in advance to Clip Clop for a period in excess of one (1) month; and (iii) any act or omission of any prior landlord.

3. Amendments to Ground Lease. Notwithstanding the provisions of Section 2 of this Agreement, Landlord shall not be bound by any amendment to the Project Lease, except and unless such amendment has been approved in writing by Landlord.

~~3~~ 4. Notices. All notices, demands or other communications required or permitted to be given hereunder shall be in writing and any and all such items shall be deemed

to have been duly delivered upon personal delivery; upon actual receipt, in the case of notices forwarded by certified mail, return receipt requested, postage prepaid, addressed as follows; or as of 12:00 noon on the immediately following business day after deposit with Federal Express or a similar overnight courier service, addressed as follows; or as of the third business hour (a business hour being one of the hours from 8:00 a.m. to 5:00 p.m. on business days) after transmitting by telecopier to the telecopy number set forth below:

If to Project Tenant, to:
Levi Strauss & Co.
Levi Plaza
1155 Battery Street
San Francisco, CA 94111
Attn: Director of Real Estate
Telephone No.: (415) 544-6658
Telecopy No.: (415) 544-3960

If to Clip Clop, to:
Clip Clop III Partners, Ltd.
252 Clayton Street
Fourth Floor
Denver, Colorado 80206
Attn: Robert J. Jacobs
Telephone No.: (303) 393-0033
Telecopy No.: (303) 393-8636

If to Landlord, to:
The San Francisco Port Commission
3100 Ferry Building
San Francisco, California 94111
Attn: Neil H. Sekhri, Deputy City Attorney
Telephone No.: (415) 274-0486
Telecopy No.: (415) 274-0494

~~4~~ 5. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon each of the parties hereto and their respective successors and assigns.

~~5~~ 6. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

~~6~~ 7. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute and be construed as one and the same instrument.

~~7~~ 8. Attorneys' Fees. Each party shall be separately responsible for any attorneys' fees and costs it may incur in connection with the negotiation, preparation and recordation of this Agreement. If there is any legal action or proceeding between or among Project Tenant, Clip Clop and/or Landlord to enforce any provision of this Agreement, or to protect or establish any right or remedy of any party hereunder, then the prevailing party shall

be entitled to all costs and expenses, including reasonable attorneys' fees and costs and expert witness' fees, incurred in connection with such action and any appeal arising therefrom, and the enforcement of any judgment(s) rendered in connection therewith.

8 9. Project Tenant Not a Party. Project Tenant shall not be joined as a party in any action or proceeding which may be instituted or taken by reason of any alleged default by Landlord or Clip Clop in the performance of their respective obligations under the Ground Lease.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the day and year first above written.

PROJECT TENANT:

LEVI STRAUSS & CO., a Delaware corporation

By: _____
Title: _____

CLIP CLOP:

CLIP CLOP III PARTNERS, LTD., a Colorado limited partnership

By: Clip Clop Acquisitions Corp., a Colorado corporation, its sole general partner

By: _____
Title: _____

LANDLORD:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation operating by and through
THE SAN FRANCISCO PORT COMMISSION

By: _____
Title: _____

APPROVED AS TO FORM:

LOUISE H. RENNE
City Attorney

By: _____
Neil H. Sekhri
Deputy City Attorney

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOM
Writer

MEMORANDUM
August 6, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James R. Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of travel authorization for one Port representative to attend meetings of Port representatives and travel industry leaders in Boston regarding domestic cruise itineraries; and to participate in the American Association of Travel Agents (ASTA's) annual lobbying event in Washington, D.C. (September 9-12), in accordance with the FY96-97 budget.

DIRECTOR'S RECOMMENDATION: APPROVE ATTACHED RESOLUTION

The American Society of Travel Agents invited a Port representative to represent the ***Cruising America Coalition*** in their annual lobbying event to be held annually in Washington D.C. This event will provide an opportunity to brief travel agents from throughout the country and congressional staff about the need to change Federal law to allow U.S. ports to develop domestic itineraries. While in Washington, D.C., the Port representative will also meet with agency and Congressional representatives regarding other port projects and issues.

The Port representative will take advantage of the event on the East Coast to participate in an event to be sponsored by MASSPORT to brief travel industry leaders regarding the Passenger Services Act and will make a presentation at the breakfast. A workshop of cruise marketing staff from ports throughout the country that are members of the ***Cruising America Coalition*** will also be held in Boston.

The estimated cost for the trip is as follows:

Round-trip Airfare SFO to Boston and Boston to D.C.	$ 650.00
Hotel (3 nights @ $154.05 inc. 13% tax)	$ 295.00
Transportation (airport transfers, cabs)	$ 150.00
Meals ($40/day x 4 days)	$ 160.00
Telephone Calls	35.00
Total	$1290.00

These funds are available for expenditure in the Port's FY 96-97 budget.

Prepared by: Veronica Sanchez, Manager, Governmental Affairs

THIS PRINT COVERS CALENDAR ITEM NO. 9C

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-81

WHEREAS, the Executive Director is requesting travel authorization for one Port representative to attend meetings of Port representatives and travel industry leaders in Boston regarding domestic cruise itineraries; and to participate in the American Association of Travel Agents (ASTA's) annual lobbying event in Washington, D.C. (September 9-12), in accordance with the FY96-97 budget.

WHEREAS, the cost of this trip has been included in the Port Commission's Fiscal year 1996-1997 budget; now, therefore, be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of August 13, 1996.

_____
Secretary

SF
55
3
8/13/96

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

DOCUMENTS DEPT.

SEP 10 1996

SAN FRANCISCO
PUBLIC LIBRARY

MINUTES OF THE MEETING
AUGUST 13, 1996

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:06 p.m. The following Commissioners were present: Michael Hardeman, Frankie Lee, Preston Cook, James Herman and Denise McCarthy.

2. APPROVAL OF MINUTES - July 9, 1996

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

3. EXECUTIVE

A. Executive Director's Report

Mr. Bouey mentioned that Items 5C and 6A will be continued to the next meeting. Mr. Bouey reported the following:

1) Hyde Street Harbor - at a previous Commission meeting, the Hyde Street Harbor and the EIR hearing were discussed. A number of speakers from the South End and Dolphin Rowing Clubs expressed concerns. Two meetings with representatives of the two clubs were held and an agreement reached that an advisory committee for the project will be established to include representatives from not only the two clubs but also from the National Park Service, Rec and Park, Clean Water, Fisherman's Wharf Tenants Association, Fisherman's Wharf Merchants Association and Crab Boat Owners Association. The Port's Environmental unit will represent the Port and staff the committee. The Port also agreed to pay for a consultant to advise the committee and to contribute $50,000 the first year.

2) MIS - He introduced Dan Tan, MIS Manager, and gave a status report of some of Dan's accomplishments at the Port.

- Upgraded hardware to an Alpha Server
- Reduced system crashes from two per week to two per year
- Increased production time; e.g. Dunning letters production reduced from 26 hours to two hours.
- Over 100 PC workstations have been installed.
- Upgraded operating system from Ultrix to Digital UNIX

- Increased response time from five seconds to less than one second
- Upgraded Oracle to current version; the Port was six versions behind

Mr. Bouey also mentioned the following MIS plans for the next few years:

- Computer Connection to Controller's Office by September 1996
- The Property Management System has been purchased, the installation is in process and fully operable by October 1996.
- Develop Permit System by December 1996
- Plan to tie in with Maintenance on the Wide Area Network
- Getting ready with the RFP for the Facility Cost Accounting System - should be implementable in 1997
- Develop a new Maintenance Scheduling System by the end of 1997

He commended Dan Tan for the tremendous impact he has made to Port operations.

3) Bicycles - One of the problems confronting patrolling police officers at the Fisherman's Wharf/Pier 39 is mobility. The Port contributed two bicycles so that officers could ride around the Fisherman's Wharf area. The Fisherman's Wharf Association thought this was a good idea and offered to raise money to purchase ten more. The Port offered to contribute two more bicycles if the Association raised money to buy eight more bicycles. Within a month, the Association raised enough money to purchase 8-10 bicycles, which will be presented at a ceremony on August 23 with Mayor Brown, the Fisherman's Wharf Association and the Port donating these bicycles to the police force.

4) Grand Jury Report - Most of the Grand Jury's findings were factually inaccurate. Staff is preparing appropriate response to the report. Given all the hours Port staff spent with the Grand Jury, the report is extremely disappointing. With regard to the recommendations made by the Grand Jury, in almost every single instance, staff has already implemented them.

4. LEGISLATIVE

5. TENANT & MARITIME SERVICES

A. Approval of lease relocating Omar's Cafe in the World Trade Center/Ferry Building. (Resolution No. 96-75)

Mr. Bouey stated that Omar's Cafe has had a lease with the Port since 1990. The current lease covers approximately 1117 sq. ft. Their base rent is a little over $1,000. A contract for stage two of the Ferry Building Seismic Mitigation Project, is expected to commence in a few months. As a result, Omar's Cafe will have to vacate the premises. Because the Port intends to completely renovate the Ferry Building, it cannot offer more than a short term lease. Given the amount of improvements necessary, it would be impractical to bid this opportunity. What's offered is a new

lease area, approximately the same size, for a period of three years for a base rent of $1658 against a percentage rent of 11%. The tenant is willing to renovate the site at a cost of $147,000. The Port will give the tenant rent credit equaling 100% the base rent as it becomes due. If the Port terminates this lease in three years, the tenant would only recover $60,000 of the $147,000.

Commissioner Herman requested a copy of the rent credit policy; Mr. Bouey replied that a copy will be sent to him.

In response to Commissioner McCarthy's inquiry about construction, Mr. Bouey reiterated this is Phase 2 of the seismic work; shear walls will be built, boilers will be relocated and a corridor constructed.

In response to Commissioner McCarthy's inquiry about bidding the contract, Cliff Jarrard, Chief Harbor Engineer, replied that this contract went out to bid but all bids were rejected. Staff has put this contract out for rebid and a pre-bid meeting is scheduled this week. Staff expects work to commence in approximately two months.

Commissioner Cook indicated that he is concerned about a tenant putting a lot of money for tenant improvement in which a tenant has not shown much ability to make much money. Omar's Cafe is reporting $103,000 gross revenues. He does not think it's a good deal for the Port. Mr. Bouey mentioned that staff sees this as an opportunity to have food service in the building and Mr. Kirk Bennett has worked for months with Omar's Cafe to ensure they are comfortable with this investment and made it exceedingly clear that there is no guarantee or suggestion that this lease will continue beyond three years. The risk is on the part of Omar's. From the Port's perspective, this is a fair compromise. He added that staff has instituted a new policy that as leases are renewed, they are audited to ensure there is a level of playing field between both the tenant and the landlord. Commissioner Cook concurred that it is a good policy. Commissioner Cook stated that he is troubled by this lease but understands the need to have food service in the Ferry Building and is willing to support it.

ACTION: Commissioner Herman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Approval of Consent to Encumbrance of Leasehold Estate, Agreement and Estoppel, regarding Lease and Supplemental Lease between Port and Gerson Bakar & Associates, for property located on SWL 322 at Front and Vallejo Streets. (Resolution No. 96-76)

Mr. Bouey indicated that G.B. & Associates leases property from the Port located at SWL 322. The tenant is in the process of refinancing its project through its existing lender. As a condition of refinancing, Bank of America is requesting the Port agree to the proposed Consent to Encumbrance. BofA asks the Port to consent to the following provisions: (1) That the proposed agreement give BofA 60 additional days

to either cure any non-monetary defaults under the lease or commence foreclosure. The lease currently allows 30 days; (2) BofA has requested that insurance and condemnation proceeds be subject to the rights of BofA under the deed of trust in the event of damage or destruction. Since the lease does not provide for termination of the lease in the event of damage or destruction, any insurance proceeds would first be applied to rebuild the premises. Staff believes that this form of agreement represents the current standard practice and not substantially alter the Port's rights under the lease. The Port Commission has approved similar agreements in the past.

Commissioner Herman inquired if the owner can insure against losses or difficulties to the satisfaction of the bank. Mr. Bouey concurred that the owner can. Commissioner Herman indicated that he is concerned about the Port committing to such agreement and wondered what the risks are in underwriting defaults. Mr. Bouey replied that the lease itself does not provide for the termination in the event of damage or destruction. Any insurance proceeds would first have to go to rebuild the premises. The Port is not at risk. Legal Counsel Neil Sekhri reiterated that what the bank is asking is in the event that there is destruction to the premises, the insurance proceeds will be first applied to rebuilding the premises. The Port's assets are protected. If there is any excess in the insurance proceeds beyond what's needed to rebuild, that will be applied to pay off the loan.

Commissioner Herman inquired about the Port's role in the request submitted by the bank. Mr. Sekhri replied that if there was destruction or damage to the building, the tenant normally would apply those proceeds to rebuild the building. Under the deed of trust, those proceeds are held by the lender and the lender needs to apply those proceeds to ensure that the building is rebuilt. Under the current lease, it provides that the tenant has to use those proceeds to rebuild the building. The Port is consenting to the lender to be able to control the use of the proceeds to rebuild the building and any excess will be used to pay off the loan.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

C. Approval of percentage rental adjustment for Alioto's #8 and Alioto Expo Restaurants at Fisherman's Wharf. (Resolution No. 96-69) **THIS ITEM WAS PUT OVER TO THE NEXT MEETING**

6. FACILITIES & OPERATIONS

A. Authorization for the Executive Director to execute a Type 2 Contract Modification to substitute the work on two cranes in place of work on two other cranes for Construction Contract No. 2610, "Pier 68 Shipyard Cranes Improvements." (Resolution No. 96-77) **THIS ITEM WAS PUT OVER TO THE NEXT MEETING.**

7. PLANNING & DEVELOPMENT

A. Informational presentation on the conceptual design of the Pier 52 Public Boat Ramp, Bait & Tackle and Eating Facility.

Mr. Bouey indicated that he is enthusiastic about bringing this project to the Commission. He stated that what is presented today is the work of an advisory committee, the design review board and significant public outreach. This is brought to the Commission for their review and comments. He mentioned that he has many comments that may necessitate some changes to the project. After the Commission's review, the process will continue and the project will be brought back to the Commission for final adoption. Staff hopes to get this facility constructed by mid to late summer.

Ms. Sharon Polledri, Director of Planning and Development, introduced Sam Kwoong, the lead person of the architecture and engineering firm for this project. She also enumerated the members of the advisory group. The group met on a weekly basis for three months to refine the concept for the project. The objectives were to improve the access to the waterfront and provide amenities for the recreational boating community and offer flexibility in the building and site improvements. This will provide centrally located access for boaters as well as a secondary access for hand-launch facilities as well as a visiting boats tie-up. The eating facility has an outdoor deck and public restrooms that will be accessible to the public. Port staff has presented the conceptual design at several public meetings including the Board of Directors and general membership of the Bayview Boat Club and BCDC's Design Review board.

Commissioner Cook commented that the width of the ramp is not sufficient to accommodate two launching simultaneously. He also asked that parking in the area needs to be addressed. He suggested perhaps putting meters in the area. Ms. Polledri indicated that the group is already working to accommodate a double ramp. The parking issue has also been discussed, as well as the monitoring of the boat trailer parking and how to effectively implement it. Commissioner Lee inquired about the budget of this contract. Ms. Polledri replied that it is $1.7 million, inclusive, with a $295,000 grant from CalBoating and Waterways.

In response to Commissioner Herman's inquiry regarding the Waterfront Land Use Plan, Mr. Bouey replied that the Waterfront Land Use Plan has been approved for the EIR process. Once the EIR is complete, the plan itself will come back to the Commission for its approval, which should occur in November.

Commissioner Lee commented that he is impressed with the project and wishes to see more of this type of project along the waterfront. Commissioner Hardeman concurred with Commissioner Lee's comments. With regard to parking, Commissioner Hardeman indicated that he has received complaints from the Mariposa Boat Club who would like the Port to put up "no parking" signs that were removed from the area.

Commissioner Cook commented that there is no defined parking in the area. There are no signs that limit parking. A permanent solution would be a defined parking signage and provide meters.

Commissioner Herman commented that the area is a refuge for people who have no place to go. Displacement from that location would only move the problem elsewhere. He hopes to have a point of view that expresses a sensitivity in trying to find a suitable location for those people who can park and relocate their trucks/vans. He is supportive of the boat ramp but the difficulty of parking is going to be more acute and more difficult.

Ms. Ricki Cornell, co-owner of Jelly's Cafe at Pier 50, indicated that the first time she's heard about this was some time ago. Ms. Polledri was to inform her of the progress but has not. Looking at the completed plans, she's surprised to find that the facility is a full-fledged restaurant with outdoor seating, contrary to prior assertions by Ms. Polledri. She feels that this is in direct competition to her cafe. She concurred with Commissioner Cook that the primary focus should be the boat ramp not the restaurant. With regard to Commissioner Herman's comments, there is a tremendous problem with the homeless in the area which they have to deal with it every day. She's happy to see that this plan is taking place as it will enhance the area and eliminate other problems but, at the same time, it creates other problems as well. Mr. Bouey indicated that this project is not complete. It was his understanding that Ms. Cornell had been invited to Advisory Committee meetings. However, staff will be going out for more public outreach and will return to the Commission before it's adopted.

B. Resolution approving and urging the execution of a Memorandum of Agreement by the Mayor and Clerk of the Board of Supervisors for the transfer from Caltrans to the City of San Francisco of four parcels of property near the intersection of Howard Street and Steuart Street, approving the acceptance by the Director of Property of such parcels, and authorizing the jurisdictional transfer of such parcels from the City to the Port. (Resolution No. 96-78)

Mr. Bouey indicated that Section 72 of the Streets and Highway Code requires CalTrans to remove the Embarcadero freeway structure and to convey to the City and Port those portions of Route 480 that are no longer required for the right-of-way purposes. A description of Parcels 3, 4, 7 and 8 is included in the package. With regard to Parcels 7 & 8, the Port is receiving the air rights over the parcels. With regard to Parcels 3 & 4, that property will return to the Port but part of each of those parcels will probably be figured into the redesign of the mid-Embarcadero project. We are following a process in which the City and the Port Commission can receive jurisdiction of these parcels.

ACTION: Commissioner Lee moved approval; Commissioner Cook seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

8. ADMINISTRATION

A. Revisions to Approval of Bid and Award of Revenue Bond Reserve Fund Investment Agreement. (Resolution No. 96-54)

Mr. Bouey stated that in June, the Commission approved the Forward Purchase Agreement. Prior to staff bringing it to the Commission, the agreement was sent to providers with a request to comment on the agreement. In the interval, it appears that the continuing outfall with Barings, Orange County, Sumitomo and others will result in changes by the SCC. Staff has been advised that it is prudent to make the four changes.

Commissioner McCarthy asked for an explanation of change #2, "If the Port draws on the Reserve Fund, thereby reducing the amount available for investment, the Port will compensate the Provider." Mr. Kutnick explained that the Provider is entering into an agreement to provide a certain amount of interest. If we were to draw on the Reserve Fund and therefore, reduce the amount available to the Provider, there is a cost to them since they have made certain commitments in the market.

Commissioner McCarthy asked if the Port is compensating the provider. Mr. Kutnick replied that the Port is entering into an agreement to provide them investment rights. If the Port draws the Reserve Fund and is not replenished within a certain period of time, the value of those rights has diminished and their ability to orient to a higher market is costing them money and therefore would like to be compensated. He added that the Port has never drawn on its Reserve Fund.

In response to Commissioner Lee's inquiry about the duration of the Provider's commitment, Mr. Kutnick replied that they are taking bids to 2004, which is ten years of the date of the issue, which is the first call date at which we could refund these funds. The life of the bonds will mature in 2009. However, we may decide based on those bids to only allow through the call date, which gives us the ability to refund these bonds without having to pay any penalty to the Providers.

Mr. Bouey stated that because of arbitrage laws, the Port is only permitted to earn a certain rate of interest. The proposed agreement guarantees that the Port will receive that rate no matter how the market fares and is protected for the next ten years. If the market should go up, the Provider gets some benefit but the Port could not have reaped that benefit. It is a shared risk where the Port is protected from the downside. Mr. Kutnick added that staff is looking to avoid market risk in the future. At the arbitrage yield, the maximum the Port can earn is 5.63. Commissioner Lee asked if the amount reduces as we pay the bond back or is it a fixed amount until the maturity of the bond. Mr. Kutnick replied that it is a fixed amount, 10% of the par value.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

9. CONSENT CALENDAR

A. Approval for one Port representative to attend the 1996 Annual American Association of Port Authorities Convention in Vancouver, British Columbia, in accordance with the FY 96-97 budget. (Resolution No. 96-79)

B. Approval of Ground Lease, Attornment and Nondisturbance Agreement between Port, Clip Clop III Partners, Ltd. and tenant of Francisco Bay Office Park on SWLs 315, 316 and 317 at Montgomery and Francisco Streets. (Resolution No. 96-80)

C. Approval for one Port representative to attend meetings of Port representatives and travel industry leaders in Boston regarding domestic cruise itineraries and to participate in the American Association of Travel Agents annual lobbying event in Washington, D.C., in accordance with the FY 96-97 budget. (Resolution No. 96-81)

ACTION: Commissioner Lee moved approval; Commissioner Cook seconded the motion. All of the Commissioners were in favor; items on the Consent Calendar were adopted.

10. NEW BUSINESS / PUBLIC COMMENT

Commissioner Hardeman stated that while driving Sunday night, he heard an interview with the Mayor regarding skateboarders and that the Mayor was commenting that this was a major item. The Mayor mentioned that he will personally get involved on this issue. He was, however, disappointed to find out that damage is being done to City structures.

Mr. Bouey gave an update regarding this subject. Veronica Sanchez has been delegated to work on this problem and has been working closely with Supervisor Yaki. Port staff has indicated that there's some property near the waterfront suitable for the skateboarders. With a more cohesive effort from Rec & Park, the City and private property owners, we can address this problem. One site is not going to solve the problem. He believes that other sites throughout the City are needed to fully address the problem.

Commissioner Herman commented that he was to be on a subcommittee. There were to have been some discussions with the Police Department that also embraces those on roller blades because of the safety hazard that is inherent and inhibit people from walking in the Embarcadero.

Mr. Bouey stated that several months ago, Commissioners O'Neill and Herman brought this situation to light and a task force to include the two of them was to be formed to address the issue. Shortly thereafter, it turned out that Supervisor Yaki announced forming a Citywide task force. At a subsequent Commission meeting, Mr. Bouey reported that the Port would become part of that task force rather than having its own as this as a Citywide problem. He will ensure that Veronica Sanchez informs the Commissioner of the subcommittee's meetings. Commissioner Hardeman reiterated that this issue has come to the Mayor's attention and feels as strongly as the Commission that the ribbon has to be protected.

Commissioner Herman requested that a public hearing be scheduled at the next Commission meeting regarding the article published in the Examiner by Commissioner Cook concerning Port matters. He will comment on the inaccuracies contained in the article and comment on the provocative quality of certain proposals that were offered. Commissioner Cook concurred.

11. EXECUTIVE SESSION

At 5:25 p.m. the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

B. CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION MATTERS

1) Excelsior/BAPC v. CCSF
San Francisco Superior Court No. 972-343

2) CCSF v. David Weiss, Pier 32 Market, Inc., et.al.
San Francisco Superior Court No. 969-872

At 6:45 p.m, Commissioners Hardeman, Lee and McCarthy returned from executive session and convened in public session. Commissioners Cook and Herman were excused.

ACTION: Commissioner Lee moved approval to not disclose any information discussed in the executive session; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 6:47 p.m.

SAN FRANCISCO
PORT COMMISSION

DOCUMENTS DEPT.

AUG 22 1996

SAN FRANCISCO
PUBLIC LIBRARY

REGULAR MEETING
4:00 P.M., TUESDAY, AUGUST 27, 1996
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

7/96

AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - August 13, 1996

3. **EXECUTIVE**

   A. Executive Director's Report

4. **LEGISLATIVE**

5. **TENANT & MARITIME SERVICES**

   A. Approval of lease with the San Francisco Unified School District for Transit Shed A at Pier 80 and for 501 Cesar Chavez Boulevard. (Resolution No. 96-82)

   B. Approval of lease with the Crab Boat Owners Association on Jones Street near Pier 47 in Fisherman's Wharf. (Resolution No. 96-83)

   C. Approval of month-to-month lease with Clarence Washington for a shoe shine stand at the Ferry Building (Resolution No. 96-84)

6. **FACILITIES & OPERATIONS**

   A. Authorization to award Contract No. 2620, "1996/1997 Dredging" to Dutra Construction. (Resolution No. 96-85)

   B. Authorization to rescind award of Contract No. 2610, "Pier 68 Shipyard Cranes Improvements" and to readvertise for bids. (Resolution No. 96-86)

7. **PLANNING & DEVELOPMENT**

   A. Amending Resolution No. 95-7 to authorize the management of any additional grant funds from the State of California, Department of Boating and Waterways (Cal Boating) for the Pier 52 Public Boat Launch project. (Resolution No. 96-87)

8. **ADMINISTRATION**

9. CONSENT CALENDAR

A. Approving a declaration of an emergency for sewer repair work at the Ferry Building. (Resolution No. 96-88)

B. Approval of travel to the International Marine Transit Association's 21st Annual Conference in Vancouver, British Columbia, in accordance with the Port's Fiscal Year 1996-97 budget. (Resolution No. 96-89)

C. Approval of travel for one Port representative to attend the Breakbulk Transpo '96 in New Orleans, Louisiana, in accordance with the Port's Fiscal Year 1996-97 budget. (Resolution No. 96-90)

10. NEW BUSINESS / PUBLIC COMMENT

11. EXECUTIVE SESSION

A. PUBLIC EMPLOYEE APPOINTMENT

1) Confirmation of Appointment of Director of Tenant & Maritime Services

An executive session to discuss this matter is specifically authorized under California Government Code Section 54957.

B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

C. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

DISABILITY ACCESS

The Port Commission office is located on the third floor of the Ferry Building, Suite 3100. The Port office is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) will be available. The closest accessible BART station is Embarcadero Station located at Market and Steuart Streets. The closest accessible MUNI Metro station is Embarcadero station located at Market and Spear Streets. Accessible MUNI lines serving the Ferry Building are the 9, 31, 32 and 71. For more information about MUNI accessible services, call 923-6142.

There is accessible parking at the Ferry Building and at the public lot in the Embarcadero median in front of the Ferry Building. Assistive listening devices are available for use in the Port Commission Meeting.

The following services are available on request 72 hours prior to the meeting. Please contact Frank Palumbo at (415) 274-0559. Late requests will be honored if possible.

- American Sign Language Interpreters
- A Sound Enhancement System
- Large Print of the Agenda
- The use of a reader during the meeting
- Minutes of the Meeting in Alternative Formats

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-6075.

PORT OF SAN FRANCISCO

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Cable SFPORTCOMM
Writer

MEMORANDUM

August 14, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of lease with the San Francisco Unified School District for Transit Shed A at Pier 80 and for 501 Cesar Chavez Boulevard

DIRECTOR'S RECOMMENDATION: APPROVE LEASE WITH THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT

BACKGROUND

Pursuant to Port Lease No. L-11975 which was approved by the Port Commission on June 28, 1994 (Resolution No. 94-95), the San Francisco Unified School District ("Tenant") currently occupies 50,000 square feet of shed space for warehousing in Transit Shed D of the Northern Container Terminal at Pier 80 and 14,000 square feet of office space in the Pier 80 Administration Building at 501 Cesar Chavez Boulevard. The term of this lease expired on July 31, 1996, and Tenant is now holding over on a month-to-month basis. Tenant also occupies 11,050 square feet of shed space in Transit Shed A at Pier 80 and an additional 2,110 square feet of office space in the Pier 80 Administration Building located at 501 Cesar Chavez Boulevard pursuant to Port license agreements dated February 1, 1996 and dated March 1, 1996.

In order to accommodate the expansion of the Breda Transportation, Inc. premises in Shed D (as approved by Port Commission Resolution 96-66) and to consolidate all of the School District's warehouse operations into a single facility, Port staff and Tenant have agreed that Tenant will relocate all of its warehousing from Transit Shed D to Transit Shed A. The parties also agreed to include all of Tenant's space in a single new lease agreement.

THIS PRINT COVERS CALENDAR ITEM NO. 5A

The temporary closure of the Pier 80 Northern Container Terminal facility will allow this interim use in Transit Shed A, generating additional interim revenue for the Port, without preventing the immediate or future use of Pier 80 for container cargo handling or other maritime purposes.

PROPOSED LEASE

A lease (Port License No. L-12320) has been negotiated by Port staff and Tenant with the following terms and conditions:

1. Premises:

   Parcel A: 66,500 square feet of shed space in Transit Shed A in the Northern Container Terminal at Pier 80.

   Parcel B: 16,110 square feet of office space in the Pier 80 Administration Building at 501 Cesar Chavez Boulevard.

2. Term: One year, commencing on August 1, 1996. Any holding over after July 31, 1997 would be on a month-to-month basis. The Northern Container Terminal can operate independently of Transit Shed A, but, in the event that the space leased by Tenant is needed for non-container cargo handling or for any use, the lease can be terminated upon 30 days notice as early as August 1, 1997.

3. Rent: $26,291.00 per calendar month, which is based upon rental rates of $.27 per square foot for the shed space and $.50 per square foot for the office space.

   The expired Lease No. L-11975 provided for rental rates equal to $.25 per square foot for the shed space and $.42 per square foot for the office space, plus rent credits for new carpeting and asbestos abatement and removal. The new lease does not provide for any rent credits. In addition, Tenant will assume responsibility for janitorial service, and lighting maintenance and repair in the office space, and Tenant will also be responsible for maintaining the landscaping that surrounds the Pier 80 Administration Building. The Port will remain responsible for the monthly electricity charges. The lease is not therefore a true gross lease; however, it cannot be considered a completely net lease because Tenant does not pay for electricity.

The minimum net effective rental rate approved by the Port Commission in the current Leasing Parameters for open shed space is $.30 per square foot net. The minimum net effective rental rates approved by the Commission for office uses are $.70 per square foot for gross leases at 501 Cesar Chavez and $.40 per square foot for net leases in the Southern Waterfront.

Port staff believes that the rental rates for the shed space and office space is appropriate because of the large size of the shed space, and the additional maintenance obligations agreed to by Tenant for the office space.

Prepared by: Kirk W. Bennett, Acting Director, Tenant and Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-82

WHEREAS, Section B3.581 of the City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, Under Section B3.581 of the City Charter, leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, Staff has negotiated all the terms and conditions of proposed leases with The San Francisco Unified School District on the terms and conditions outlined in Agenda Item 5A for the Port Commission meeting of August 27, 1996 which include rental rates lower than provided for in the Leasing Parameters approved by the Port Commission; now therefore, be it

RESOLVED, That the Port Commission hereby approves entering into Port Lease No. L-12320 between the Port and The San Francisco Unified School District, as described in Agenda Item 5A for the Port Commission meeting on August 27, 1996, and authorizes the Executive Director of the Port, or his designee to execute the same on behalf of the Port and in such form as is approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 27, 1996.

_____
Secretary

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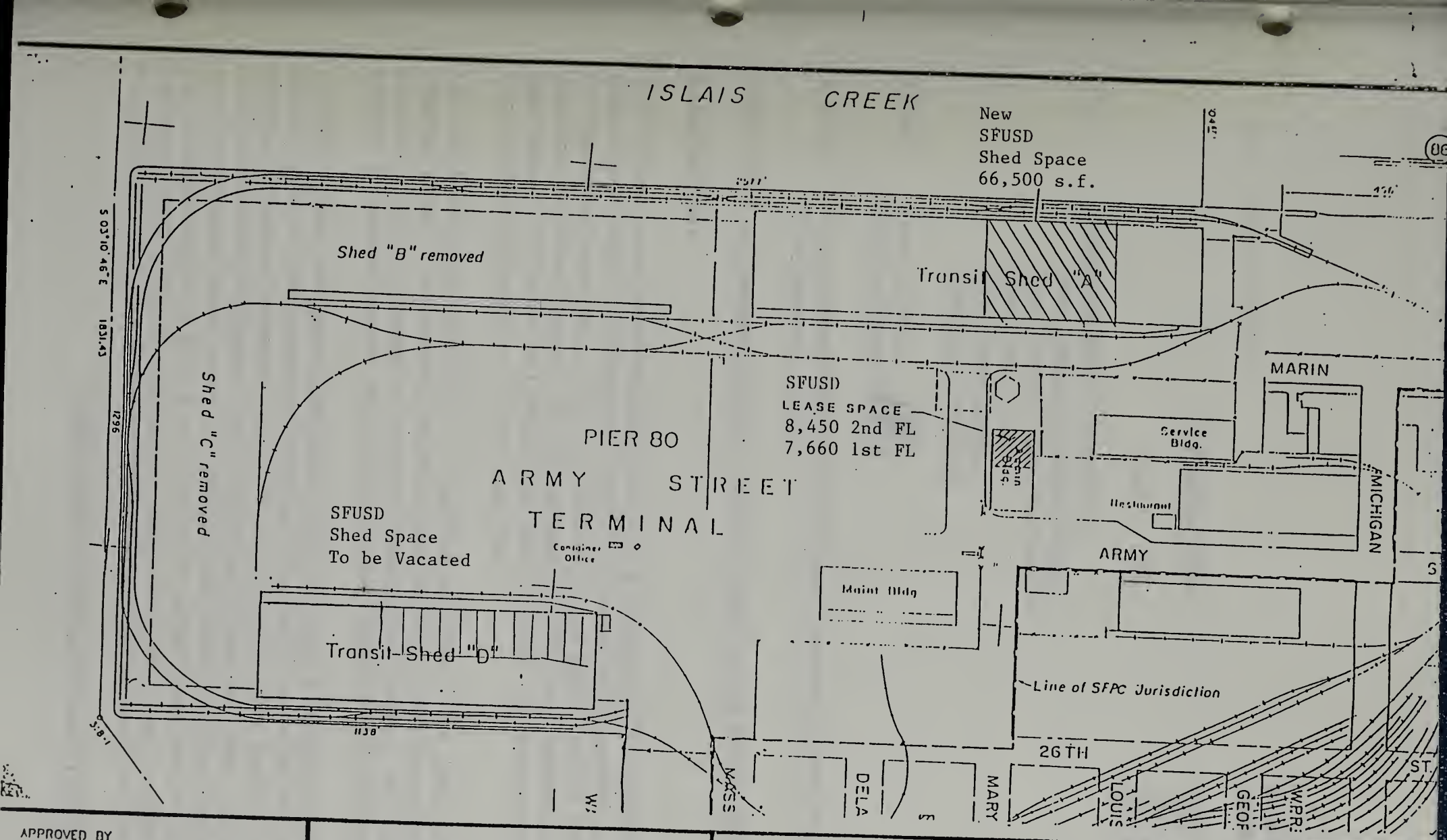


APPROVED BY SAN FRANCISCO PORT COMMISSION DATE _____ _____ CHIEF HARBOR ENGINEER	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	SAN FRANCISCO UNIFIED SCHOOL DISTRICT	DESIGNED BY: DRAWN BY: CONTRACT NO. DRAWING NO. CHECKED BY: DATE: SCALE: SHEET NO. OF SHE

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

August 13, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of lease with the Crab Boat Owners Association on Jones Street near Pier 47 in Fisherman's Wharf.

DIRECTOR'S RECOMMENDATION: APPROVE LEASE AS SET FORTH HEREIN.

BACKGROUND

The Crab Boat Owners Association occupies a 2,717 sq. ft. building at 2907 Jones Street between Jefferson Street and Pier 47 in Fisherman's Wharf. This two-story building consists of 1,580 sq. ft. of meeting hall space, and 1,137 sq. ft. of office and storage space. The Crab Boat Owners Association, which was founded in 1952, has occupied this building on a month-to-month basis since October 5, 1978 under Port License To Use Space No. 9548. The current rent under this license is $540.68 per month, or $0.20 per square foot.

The Crab Boat Owners Association is an important component of the fishing industry at Fisherman's Wharf. It is a member of the Pacific Coast Federation of Fishermen's Associations. Its primary roles are to represent its members in marketing their products, and to educate its members, governmental agencies, and the public in matters affecting the fishing industry.

The fishing industry is the heart of Fisherman's Wharf. Its vitality is essential to the continued economic health of other businesses at Fisherman's Wharf and is crucial for preserving and enhancing the appeal of Fisherman's Wharf. The Port of San Francisco is therefore committed to the preservation and revitalization of the fishing industry at Fisherman's Wharf, and has taken recent actions towards this end, such as: the construction and lease-up of modern fish processing and wholesaling facilities in Sheds B and D of Pier 45; and subsidizing the ice operation at Fisherman's Wharf to make ice available to the fishing industry in a range of quantities and at reasonable prices. Towards this same end, Port staff believes that the rent for the Crab Boat

Owners Association should be cut in half and their occupancy should be converted from a month-to-month license to a long-term lease.

PROPOSED LEASE

A new lease (Port Lease No. L-12169) has been negotiated by Port staff and the Crab Boat Owners Association on the following terms and conditions:

1. Tenant: Crab Boat Owners Association, a California non-profit corporation.

2. Premises: 2,717 sq. ft., comprised of 1,580 sq. ft. of meeting hall space and 1,137 sq. ft. of office and storage space, located on Seawall Lot 302.

3. Term: Ten years, commencing September 1, 1996.

4. Rent: $270.34 per month (or $0.10 per square foot), with annual cost of living increases.

5. Use: The office and storage space shall only be used for general office and storage uses, and the meeting hall space shall only be used for meetings involving the fishing industry. Tenant agrees to make the meeting hall space available for meetings by other fishing associations, subject only to reasonable notice and insurance requirements, rules, and security and cleaning deposits. Any other subletting of the premises will require the approval of the Port, and upon such approval, Tenant may retain all "profits" from the subletting, which will be utilized to support its promotion of the fishing industry.

6. Maintenance and Repairs: Tenant shall be responsible for all maintenance and repairs to the Premises except for the roof, which shall be the responsibility of Port.

7. Modification of Indemnity and Exculpation Language: The standard Indemnity and Exculpation language, indicated on Exhibit B attached hereto, will be replaced with the Indemnity and Exculpation language indicated on Exhibit C attached hereto. While the Port Commission has not granted the Port or the City Attorney's discretion to modify the Indemnity and Exculpation provisions, the Port Commission has approved modifications to such provisions in the past, including leases with the State of California and with Crowley Marine Services, Inc.

Prepared by: Kirk W. Bennett, Acting Director Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-83

WHEREAS, Section B3.581 of the City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, Under Section B3.581 of the City Charter, leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, Converting the month-to-month tenancy of the Crab Boat Owners Association at Fisherman's Wharf to a long-term lease at reduced rents assists the Port in achieving its goal to preserve and enhance the economic vitality of the fishing industry at Fisherman's Wharf; now therefore, be it

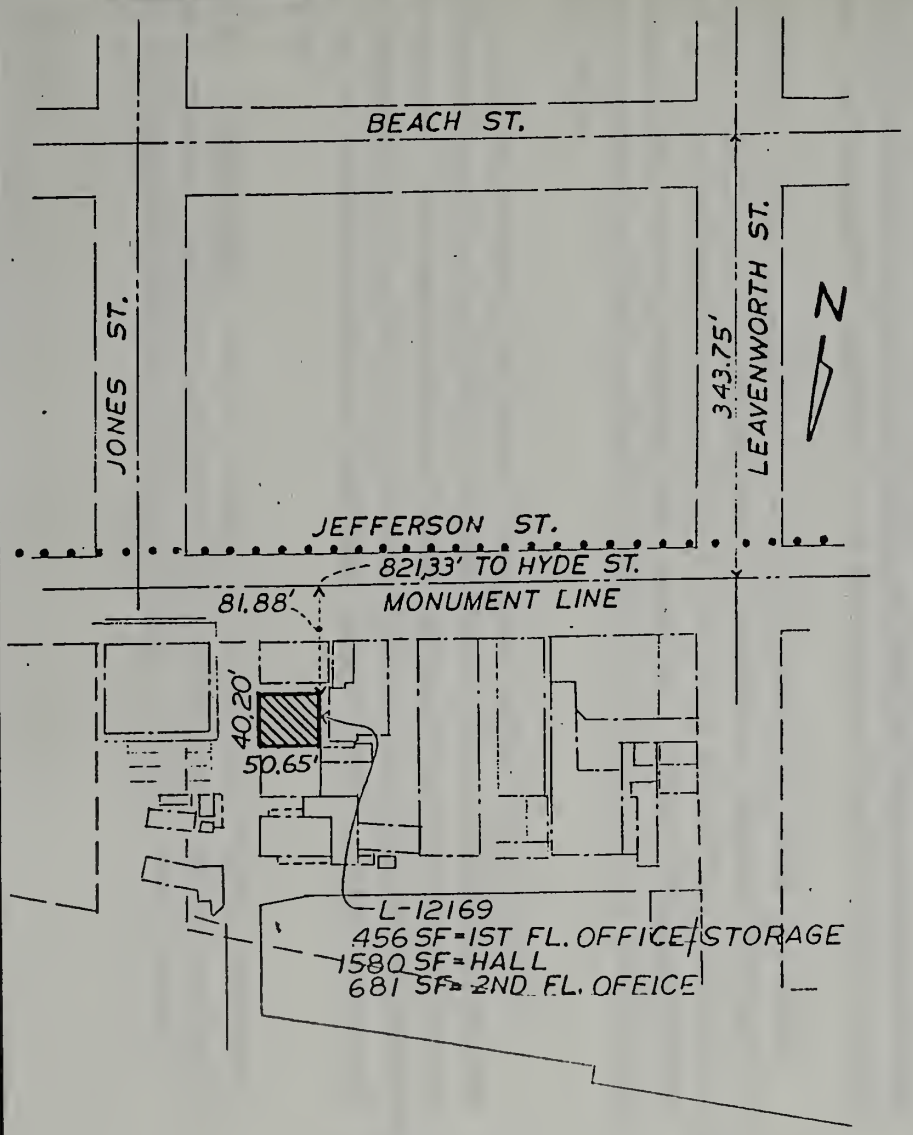
RESOLVED, that the San Francisco Port Commission hereby approves entering into Lease No. L-12169 between the Port and the Crab Boat Owners Association, with the business terms as set forth in the Memorandum of Agenda Item No. 5 B for the Port Commission meeting on August 27, 1996, hereby approves and authorizes the Executive Director of the Port, or his designee, to execute the same on behalf of the Port, in such form as is approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 27, 1996.

_____
Secretary

I:\WP51\CRABBOAT.KB\ibn\August 13, 1996

EXHIBIT "A"



Contract No.

APPROVED BY
SAN FRANCISCO PORT COMMISSION
DATE_____

_____
CHIEF ENGINEER

NO.	DATE	DESCRIPTION
	10-1-95	L-12169

REVISIONS

PORT OF SAN FRANCISCO
SAN FRANCISCO PORT COMMISSION
DEPARTMENT OF ENGINEERING

CRAB BOAT OWNERS ASSN.

IN CHARGE OF	CHECKED BY
MADE BY	DATE
TRACED BY	SCALE
DRAWING NO. 3020	SHEET NO. 6 OF SHEETS

EXHIBIT B

STANDARD LEASE INDEMNITY AND EXCULPATION SECTION

---

20. Indemnity and Exculpation.

20.1 Indemnity. Tenant shall indemnify and hold Port, City and their agents, officers, directors, contractors and employees (collectively, "Agents") harmless from, and, if requested, shall defend them against any and all claims, direct or vicarious liability, damage, injury or loss arising directly or indirectly out of: **(a)** any injury to or death of any person, including employees of Tenant, or damage to or destruction of any property occurring in, on or about the Premises, or any part thereof, from any cause whatsoever, or **(b)** any default by Tenant in the observance or performance of any of terms, covenants or conditions of this Lease, or **(c)** the use, occupancy or condition of the Premises or the activities therein by Tenant, its Agents, or clients, customers, invitees, guests, members, licensees, assignees and subtenants (collectively, "Invitees"). This indemnity shall be enforceable regardless of the negligence of Port or City, and regardless of whether liability without fault is imposed or sought to be imposed on Port or City. This indemnity shall be enforceable except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on , or validly retroactive to, the date of this Lease. This indemnity includes all such loss, damage, injury, liability or claims as described above, loss predicated in whole or in part, upon active or passive negligence of Port, City or their Agents. This indemnity shall exclude claims, liability, damage or loss resulting solely and exclusively from the wilful misconduct of Port or City which is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on, Tenant, its Agents or invitees.

In addition to Tenant's obligation to indemnity Port and City, Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend Port and City from any claim which actually or potentially falls within its indemnification provision, even if the allegations are or may be groundless, false or fraudulent. Tenant's obligation to defend shall arise at the time such claim is tendered to Tenant by Port and/or City and shall continue at all times thereafter.

The foregoing indemnity obligation of Tenant shall include without limitation, indemnification from all loss and liability, including attorney's fees, court costs and all other litigation expenses. This indemnification by Tenant shall begin from the first notice that any claim or demand is or may be made. The provisions of this section shall survive the termination of this Lease with respect to any damage, destruction, injury or death occurring prior to such termination.

20.2 Exculpation. Tenant, as a material part of the consideration to be rendered to Port, hereby waives any and claims against Port, City and their Agents, and agrees to hold Port, City and their Agents harmless from any claims for damages to goods, wares, goodwill,

merchandise, equipment or business opportunities and by persons in, upon or about said Premises for an cause arising at any time (including without limitation all claims arising from the joint or concurrent negligence of Port or City or their Agents), but excluding any intentionally harmful acts committed solely by Port or City.

NOTE: Language modified in the Crab Boat Owners Association lease underlined.

G:\WP51\AGENDAS\CRABEX.KB\August 12, 1996

EXHIBIT C
CRAB BOAT OWNERS ASSOCIATION
MODIFIED INDEMNITY AND EXCULPATION SECTION

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20. Indemnity and Exculpation.

20.1 Indemnity. Tenant shall indemnify and hold Port, City and their Agents, officers, directors, contractors and employees (collectively, "Agents") harmless from, and, if requested, shall defend them against any and all claims, direct or vicarious liability, damage, injury or loss arising directly or indirectly out of the use of the Premises or the activities therein by Tenant, its Agents, or clients, customers, invitees, guests, members, Tenants and assignees (collectively "Invitees") activities therein. This indemnification shall be enforceable except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on, or validly retroactive to, the date of this Lease. This indemnity shall exclude claims, liability, damage or loss resulting exclusively from the negligence or willful misconduct of Port or City.

In addition to Tenant's obligation to indemnify Port and City, Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend Port and City from any claim which actually or potentially falls within its indemnification provisions, even if the allegations are or may be groundless, false or fraudulent. Tenant's obligation to defend shall arise at the time such claim is tendered to Tenant by Port and/or City and shall continue at all times thereafter.

The foregoing indemnity obligation of Tenant shall include without limitation, indemnification from all loss and liability, including attorney's fees, court costs and all other litigation expenses. This indemnification by Tenant shall begin from the first notice that any claim or demand is or may be made. The provisions of this section shall survive the termination of this Lease with respect to any damage, destruction, injury or death occurring prior to such termination.

20.2 Exculpation. Tenant, as a material part of the consideration to be rendered to Port, hereby waives any all claims against Port, City and their Agents, and agrees to hold Port, City and their Agents harmless from any claims for damages to Tenant's goods, ware, goodwill, merchandise, equipment, business opportunities in, upon or about said Premises, but excluding claims resulting exclusively from the negligence of the Port, the City or their Agents, or resulting from any intentionally harmful acts committed solely by Port or City.

NOTE: Modified language underlined.

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
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Writer

August 13, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of a month-to-month lease with Clarence Washington for a shoeshine operation at the Ferry Building.

DIRECTOR'S RECOMMENDATION: APPROVE LEASE AS SET FORTH HEREIN.

BACKGROUND

Cordell R. ("Smitty") Smith, who has operated a shoeshine stand at the Ferry Building since January 31, 1989 under Port License To Use Space #11433, terminated this license as of June 30, 1996. Clarence Washington, who operated the shoeshine stand at the Ferry Building prior to Mr. Smith, desires to continue this shoeshine operation at the Ferry Building.

Port staff believes that the bidding of this retail opportunity at this time is impractical because of planned construction projects which will impact the area where the shoeshine stand is located. First, work on Stage II of the Ferry Building Seismic Mitigation Project is expected to commence in late 1996, which will include constructing shear walls that will directly impact a portion of the shoeshine stand premises. Second, the Port is proceeding with plans to renovate the World Trade Center/Ferry Building. Port staff therefore believes that the Port should enter into a month-to-month lease with Clarence Washington to maintain shoeshine services for the tenants of the World Trade Center/Ferry Building and their visitors while these construction projects are pending.

THIS PRINT COVERS CALENDAR ITEM No. 5C

PROPOSED LEASE

A new lease (Port Lease No. L-12319) has been negotiated by Port's staff and Clarence Washington on the following terms and conditions:

1. Tenant: Clarence Washington, an individual.

2. Premises/Use: Approximately 30 sq. ft. of storage space (Parcel A) and 30 sq. ft. of open space (Parcel B) in the Ferry Building arcade, as shown in the attached site plan. Parcel A will be used for storage of a shoeshine stand, and Parcel B shall be used for the shoeshine stand when open for business to the public. Tenant acknowledges that Parcel A will be demolished during the Stage II construction, and the Port agrees to make a diligent effort to provide an alternative storage area for the shoeshine stand. Port shall have the right to relocate the shoeshine stand during business hours from Parcel B to provide pedestrian access during construction, inclement weather, and special events.

3. Rent: Base rent of $100.00 per month (with annual cost of living increases), versus 10% percentage rent.

Prepared by: Kirk W. Bennett, Acting Director, Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. 96-84

WHEREAS, Section B3.581 of the City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, Under Section B3.581 of the City Charter, leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, It is impractical for the Port to now bid the shoeshine stand opportunity at the Ferry Building because of the planned Stage II of the Ferry Building Seismic Mitigation Project construction and the planned renovation of the World Trade Center/Ferry Building; now therefore, be it

RESOLVED, that the San Francisco Port Commission hereby approves entering into a month-to-month Lease No. L-12319 between the Port and Clarence Washington on the terms and conditions outlined in the Memorandum of Agenda Item No. 5C for the Port Commission meeting on August 27, 1996, and hereby authorizes the Executive Director of the Port, or his designee, to execute the same on behalf of the Port, in such form as is approved by the City Attorney.

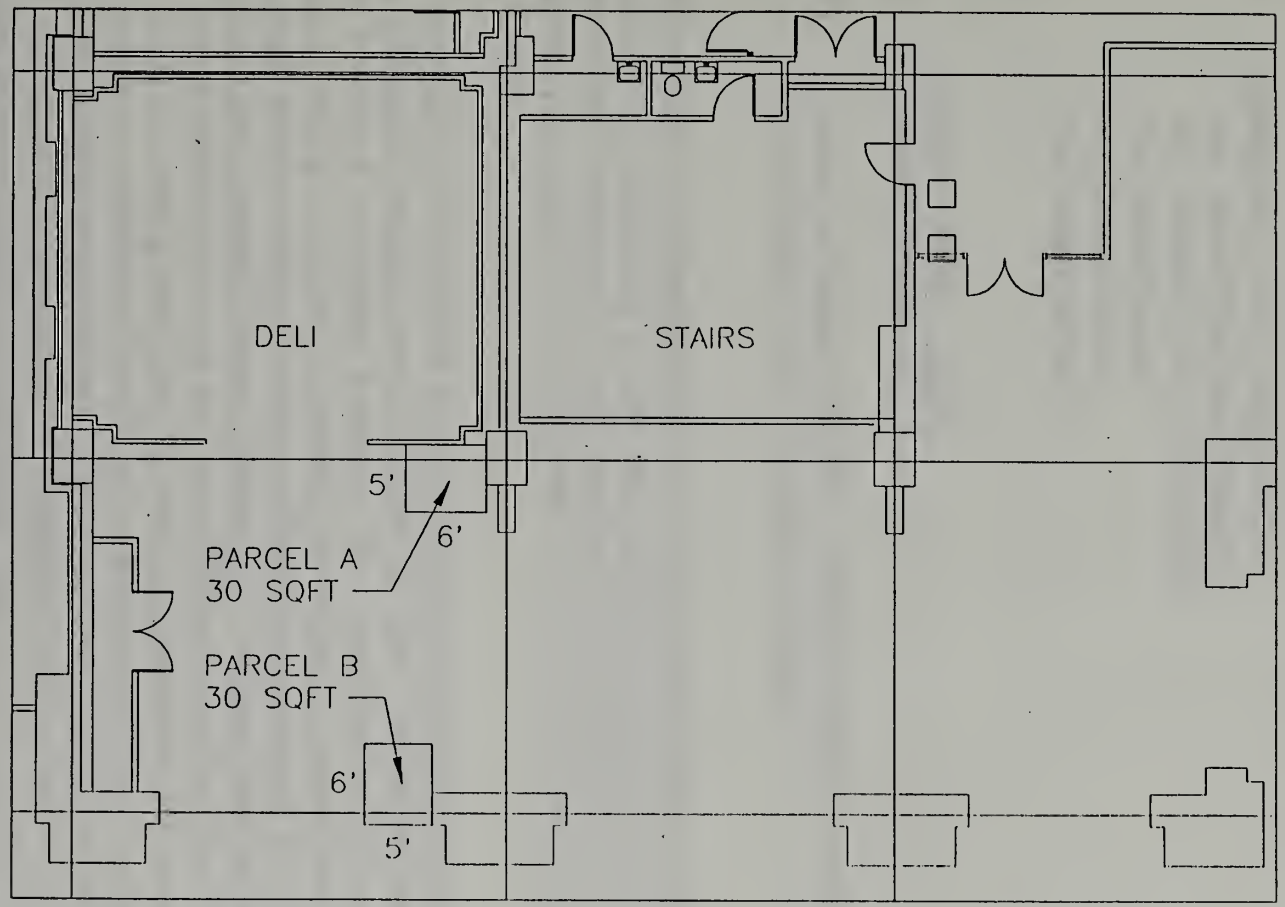
I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 27, 1996.

_____
Secretary

G:\WP51\AGENDAS\WASHINGT.KB\ibn\August 13, 1996

EXHIBIT A

INITIALS: PORT _____ TENANT _____ DATE 9/19/96



FERRY BUILDING -- FIRST FLOOR

LEASE NO.		TENANT:		
12319	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO	CLARENCE WASHINGTON	DRAWN BY: S. CHU CHECKED BY:	DATE: JULY 26, 1996 SCALE: NO SCALE
			PLACE CODE NO. 2740-1-001A	SHEET NO. OF SHEETS

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
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MEMORANDUM

August 21, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. James Herman
Hon. Preston Cook
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Construction Contract No. 2620, "1996/97 Dredging," Authorization to Award Contract to Dutra Construction Company

DIRECTOR'S RECOMMENDATION: THAT THE COMMISSION AUTHORIZE THE EXECUTIVE DIRECTOR TO AWARD CONTRACT NO. 2620 TO DUTRA CONSTRUCTION COMPANY IN THE AMOUNT OF $230,000.00 AND AUTHORIZE THE EXECUTIVE DIRECTOR TO ACCEPT THE WORK UPON COMPLETION

The Port Commission authorized the invitation for bids on Construction Contract No. 2620 for dredging at the regular meeting on June 18, 1996. One bid was received on August 8, 1996 and a bid summary is attached. The Contract includes the required maintenance dredging at a number of specified Port facilities to accommodate current shipping needs and the flexibility to specify different sites in dredging if required at those sites to accommodate potential business opportunities. Dredging work includes provisions for both bottom sediment disposal at the Alcatraz Dump Site and for upland disposal as needed. Contract Award is based upon the lowest responsible bid determined by taking the sum total of any combination of bid items, or fraction of bid items, to obtain a total of 107,900 cubic yards of dredge material. The budget for this contract is $400,000, however a portion of the funds are not yet appropriated. Due to limitation of funds appropriated at time of award, the initial quantity awarded will be for $230,000 which

THIS PRINT COVERS CALENDAR ITEM NO. 6A

will provide for approximately 46,000 cubic yards of dredging depending on the actual sites dredged and the material encountered. When additional funding becomes available through the ongoing supplemental appropriation process the contract amount will be increased by $170,000 as a Type 1 modification, based upon the bid's unit prices for a total Contract amount of $400,000. The actual amount that can be dredged for the $400,000 is estimated at between 100,000 and 110,000 cubic yards but will depend on the sites chosen, the dredge material encountered and the number of dredging episodes used.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: Chiang Ng
Checked By: Rob Lim
Date: Aug 8, 1996

Project: Dredging
Contract No.: 2620 **Project Engineer: Ed Byrne** **Bids Opened: Aug 8, 1996**

Bid Item #	Description	Estimated Quantity	Dutra Dredging Company 1000 Pt. San Pedro Road San Rafael, CA 94901 (415) 458-5466 Unit Price	Total	Bidder Name Address City, State, Zip Phone # Unit /LS Price	Total	Bidder Name Address City, State, Zip Phone # Unit /LS Price	Total	Bidder Name Address City, State, Zip Phone # Unit /LS Price	Total	Bidder Name Address City, State, Zip Phone # Unit /LS Price	Total
1	Fisherman's Wharf West Approach	10500	$5.00	$52,500.00								
2	Pier 45 East	40000	$3.00	$120,000.00								
3	Pier 35 West	20000	$3.50	$70,000.00								
4	Pier 35 East	60000	$3.50	$210,000.00								
5	Pier 29	68000	$3.00	$204,000.00								
6	Pier 27	26000	$3.50	$91,000.00								
7	Pier 30	83000	$3.00	$249,000.00								
8	Pier 48A Approach	109000	$3.00	$327,000.00								
9	Pier 48A	31000	$3.00	$93,000.00								
10	Pier 48 -50 Approech	156000	$3.00	$468,000.00								
11	Pier 48B	26000	$3.00	$78,000.00								
12	Pier 50A	52000	$3.00	$156,000.00								
13	Pier 50C	42000	$3.00	$126,000.00								
14	Central Basin	237000	$3.00	$711,000.00								
15	Islais Creek Approach	73000	$3.50	$255,500.00								
16	Islais Creek Channel	58000	$3.50	$203,000.00								
17	Pier 80B	27000	$3.50	$94,500.00								
18	Islais Creek Channel	25000	$3.50	$87,500.00								
19	Pier 92	12000	$3.50	$42,000.00								
20	Pier 90	14000	$3.50	$49,000.00								
21	80C Approach	4500	$3.50	$15,750.00								
22	Pier 80C	13500	$3.50	$47,250.00								
23	80D Approach	83000	$3.00	$249,000.00								
24	Pier 80D	54000	$3.00	$162,000.00								
25	Pier 94	3000	$3.50	$10,500.00								
26	Pier 96	9000	$3.50	$31,500.00								
27	Cost per cubic yard for upland disposal of solid debris material unsuitable for disposal at Alcatraz	50	$67.00	$3,350.00								
28	Cost for mobilization and demobilization for each dredging assignment less than 5 consecutive 24 hour working days in duration	2	$12,000.00	$24,000.00								
29	Additional cost per cubic yard to be added to the unit price rated in Bid Items 1 through 26 for upland disposal of dredged bottom sediments unsuitable for disposal at Alcatraz	2500	$52.00	$130,000.00								
29A	Cost for providing Pollution Control Insurance for the work required in Item 29 for the duration of the Contract	1	$40,000.00	$40,000.00								
	Totals			NA								

Note: Unit price bid. Contract amount will be based upon available funding.

BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: Chiang Ng
Checked By: Rob Lim
Date: Aug 8, 1996

Project: Dredging
Contract No.: 2620
Project Engineer: Ed Byrne
Bids Opened: Aug 8, 1996

		Dutra Dredging Company 1000 Pt. San Pedro Road San Rafael, CA 94901 (415) 458-5466		Bidder Name Address City, State, Zip Phone #		Bidder Name Address City, State, Zip Phone #		Bidder Name Address City, State, Zip Phone #		Bidder Name Address City, State, Zip Phone #	
Required Forms	Document #	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)
Bid	00300	Yes									
Addenda Acknowledgement			No								
Schedule of Bid Prices	00302		No								
Schedule of Unit Prices	00304	Yes									
Bid Bond	00411	Yes									
Experience & Financial Qualification	00420	Yes									
List of Subcontractors	00430	Yes									
Non-Collusion Certification	00481	Yes									
HRC Form 1		NA									
HRC Schedule A (as applic, by 5pm)		NA									
HRC Schedule L (as applic, by 5pm)		NA									
HRC Form 2A		NA									
HRC Form 2B		NA									
Apprenticeship Program	00490	Yes									
Business Tax Reg Declaration	00491	Yes									
Highest General Prevailing Wage	00492	Yes									
Equal Opp Empl & Bus Practices: L	00493	Yes									
MacBride Principles	00494	Yes									
Deemed Responsive by Engin & HRC (Y/N) ?		Yes									
Total Bid ——→		NA									
PREFERENCES (as applicable):											
MBE	10%	NA									
WBE	10%	NA									
LBE	5%	NA									
JV	5%	NA									
JV	7.5%	NA									
JV	10%	NA									
Adjusted Bid ——→		NA									

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PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-85

WHEREAS, the Port Commission authorized the advertisement for bids on Construction Contract No. 2620 for dredging at the regular meeting on June 18, 1996; and

WHEREAS, one bid was received on August 8, 1996; and

WHEREAS, Contract Award is based upon the lowest responsible bid determined by taking the sum total of any combination of bid items, or fraction of bid items, to obtain a total of 107,900 cubic yards of dredge material; and

WHEREAS, the Contract includes the required maintenance dredging at a number of specified Port facilities to accommodate current shipping needs and the flexibility to specify different sites in dredging is required at other Port sites to accommodate potential business opportunities; and

WHEREAS, dredging work includes provisions for bottom sediment disposal at the Alcatraz Dump Site and for potential upland disposal as needed; and

WHEREAS, the total budget for this contract is $400,000 however all the funding has not yet been appropriated; and

WHEREAS, due to limitation of funds at time of award, the initial quantity awarded will be for $230,000 which will provide for approximately 46,000 cubic yards of dredging; and

WHEREAS, when additional funding becomes available through the ongoing supplemental appropriation process the contract amount will be increased by $170,000 as a Type 1 modification, based upon the bid's unit prices for a total Contract amount of $400,000; and

WHEREAS, the actual amount that can be dredged for the $400,000 is estimated at between 100,000 and 110,000 cubic yards but will depend on the sites chosen, the dredge material encountered and the number of dredging episodes used; therefore be it

RESOLVED, that the Commission authorize the Executive Director to award Contract No. 2620 to Dutra Construction Company in the amount of $230,000; and therefore be it further

RESOLVED, that the Commission authorize the Executive Director to issue a Type 1 Contract Modification to the contract increasing the total contract amount to $400,000 when the additional funding becomes available through the supplemental appropriation process and authorize the executive director to accept the work upon completion.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 27, 1996.

_____

PORT OF SAN FRANCISCO

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Writer

MEMORANDUM

August 21, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. James Herman
Hon. Preston Cook
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Construction Contract No. 2610, "Pier 68 Shipyard Crane Improvement Project," rescind authorization to award contract and authorization for staff to readvertise for bids

DIRECTOR'S RECOMMENDATION: RESCIND THE AUTHORIZATION TO AWARD CONTRACT 2610 AND AUTHORIZE STAFF TO READVERTISE FOR BIDS

On May 28, 1996, the Port Commission approved the award of Contract 2610, "Pier 68 Shipyard Crane Improvement Project," to Rigging International for $1,621,260 and authorized 10% in contingencies for possible Type 1 Contract Modifications. The contract was authorized by the Commission for crane renovation, primarily on cranes #30 and #32. The crane repair work is intended to improve the cranes by extending their useful life, thereby facilitating the tenant's ship repair operations. Before the contract was fully executed by the City, the shipyard and the Port determined that it was preferable to focus the renovation work on cranes #33 and #34 which serve drydock #2. This is the drydock on which most ship repair work is conducted. This work will be of greater benefit to the tenant's shipyard operations. However, awarding this work to Rigging International would require a Type 2 contract modification.

In order to focus the work on cranes #33 and #34, staff recommends rescinding the authorization to award and readvertising for bids. The bid documents will be modified to allow the Port to select and award any combination of bid items it deems appropriate. Readvertising and rebidding will allow all interested bidders the opportunity to participate in the competitive bid process for the priority work identified by the shipyard.

THIS PRINT COVERS CALENDAR ITEM NO. 6B

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This contract is being financed by a grant of $1,500,000 from the United States Department of Commerce, Economic Development Administration, $250,000 from the California Trade and Commerce Agency, and $250,000 in Port funds.

Although it is the Port's position that a binding contract has not been fully executed, Rigging Internationl may argue otherwise. To preclude additional Port liability if Rigging International is successful in their argument, staff also requests the Commission authorize it to issue an alternative Termination for Convenience Notice to Rigging International.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-86**

WHEREAS, on May 28, 1996, the Port Commission approved the award of Contract 2610, "Pier 68 Shipyard Crane Improvement Project," to Rigging International for $1,621,260 and authorized 10% in contingencies for possible Type 1 Contract Modifications; and

WHEREAS, the contract was authorized by the Commission for crane renovation, primarily on cranes #30 and #32; and the crane repair work is intended to improve the cranes by extending their useful life, thereby facilitating the tenant's ship repair operations; and

WHEREAS, before the contract was fully executed by the City, the shipyard and the Port determined that it was preferable to focus the renovation work on cranes #33 and #34 which serve drydock #2; which is the drydock on which most ship repair work is conducted; so this work will be of greater benefit to the tenant's shipyard operations; however, awarding this work to Rigging International would require a Type II contract modification; and

WHEREAS, in order to focus the work on cranes #33 and #34, staff recommends rescinding the authorization to award and readvertising for bids; and

WHEREAS, the bid documents will be modified to allow the Port to select and award any combination of bid items it deems appropriate; and readvertising and rebidding will allow all interested bidders the opportunity to participate in the competitive bid process for the priority work identified by the shipyard; and

WHEREAS, this contract is being financed by a grant of $1,500,000 from the United States Department of Commerce, Economic Development Administration, $250,000 from the California Trade and Commerce Agency, and $250,000 in Port funds; and approximately $109,000 of the State funds has been expended on Port labor and the furnishing and installing of electrical equipment; therefore be it

RESOLVED, that the San Francisco Port Commission hereby approves the rescission of the award of contract 2610, issue an alternative Termination for Convenience Notice to Rigging International and authorizes staff to readvertise for bids.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 27, 1996.

_____
Secretary

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PORT OF SAN FRANCISCO

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MEMORANDUM

August 27, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Amending Port Resolution No. 95-7 to authorize the management of any additional grant funds from the State of California, Department of Boating and Waterways (Cal Boating) for the Pier 52 Public Boat Launch Project

DIRECTOR'S RECOMMENDATION: APPROVE AMENDMENT

The Port Commission previously accepted responsibility from the Recreation and Parks Department for managing a grant ($295,000) from the Department of Boating and Waterways for the repair of the existing public boat launch at Pier 52 (Resolution No. 95-7). A copy of Resolution 95-7 is attached hereto. The grant assumed that parking for the new facility could be provided along Terry Francois Blvd. The assumption about on-street parking for the new facility may no longer be prudent.

In the last meeting, Port staff briefed the Commission on the on-going design development of Pier 52. The current design envisions a small parking lot on the west side of Terry Francois Blvd. immediately adjacent to the project. The lot would provide 20 vehicle and trailer spaces and an area for a boat wash. The design team has estimated the cost of the improvements at $198,000. Staff believes that the importance of providing parking for the boating community is prudent.

THIS ITEM COVERS CALENDAR ITEM NO. 7A

A grant application was submitted by Port staff for the proposed parking lot for Cal Boating FY 97-98 grant cycle, which was due June 1, 1996. Cal Boating staff accepted the grant application under the Board of Supervisors original authorization for a $500,000 grant application (FY 93-94). Cal Boating staff has requested that the Commission amend its original resolution to allow acceptance of any future additional grant resources for the project.

Prepared by: Sharon Lee Polledri
Director, Planning & Development

PORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-87

WHEREAS, the Port Commission previously adopted Resolution 95-7 concerning the management of grants funds from the State of California, Department of Boating and Waterway (Cal Boating) ; and

WHEREAS, Resolution 95-7 specified a grant amount from Cal Boating of $295,000; and,

WHEREAS, the Port has applied for $198,000 grant from Cal Boating in its FY 1997-98 grant cycle; therefore be it

RESOLVED, that the Port Commission hereby amends Resolution 95-7 to accept responsibility for managing any new Cal Boating funds that may be awarded for the Pier 52 project.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 27, 1996.

_____

Secretary

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 95-7

WHEREAS, the San Francisco Recreation and Park Department (Rec and Park) secured a grant of $295,000 from Cal Boating for improvements at Pier 52; and

WHEREAS, Rec and Park wishes to turn those funds over to the Port for execution; and

WHEREAS, the Port must formally accept the responsibility for managing this grant; and

WHEREAS, the grant is to be used for the repair and enhancement or replacement of an existing public boat launch and float, the construction of a gangway and miscellaneous landscaping improvements at Pier 52; and

WHEREAS, the Port wishes to make further improvements in this area by constructing a new cafe and bait shop and has allocated an additional $1,400,000 from the Port's 1994 Bond Refinancing Funds for this work; and

WHEREAS, the funds must be substantially spent by June 30, 1996; and

WHEREAS, the Port does not currently have sufficient staff resources to perform the in-house design for these improvements; therefore be it

RESOLVED, that the Commission hereby accepts responsibility for management of the grant from Cal Boating; and be it further

RESOLVED, that the Commission hereby authorizes staff to issue a Request for Proposals for architectural and engineering services for a public boat ramp, bait shop and cafe, and open space at Pier 52.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of January 24, 1995.

Secretary

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PORT OF SAN FRANCISCO

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MEMORANDUM

August 21, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. James Herman
Hon. Preston Cook
Hon. Denise McCarthy

FROM: Dennis P. Bouey, Executive Director

SUBJECT: Approving a Declaration of Emergency for contracted assistance to repair sewer piping under the Ferry Building

DIRECTOR'S RECOMMENDATION: APPROVE THE DECLARATION OF AN EMERGENCY TO ALLOW CONTRACTORS TO REPAIR DAMAGED SEWER PIPING UNDER THE FERRY BUILDING.

A recent inspection of the sewer piping below the Ferry Building revealed several areas of damage due to corrosion, floating debris, and internal blockages. These conditions pose a health hazard and the repair work must be done as soon as possible to comply with environmental regulations. The magnitude of the scope of the repairs is beyond Port maintenance staff resources and can only be accomplished in the necessary time frame with two or three emergency contracts for construction. Funds for these emergency contracts, estimated to cost approximately $150,000.00, are available in the Port's Operating Budget.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

THIS PRINT COVERS CALENDAR ITEM NO. 9A

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PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-88

WHEREAS, a recent inspection of the sewer piping below the Ferry Building revealed several areas of damage from corrosion, floating debris, and internal blockages, and

WHEREAS, these conditions pose a health hazard and the work must be done as soon as possible, and

WHEREAS, the magnitude of the scope of repairs is beyond Port maintenance staff resources and can only be accomplished in the necessary time frame with two or three emergency contracts for construction, and

WHEREAS, funds for these emergency contracts, estimated to cost approximately $150,000.00, are available in the Port's Operating Budget, therefore be it

RESOLVED, that the San Francisco Port Commission hereby ratify the action of the President of the Commission contained in the letter to the Controller dated July 30, 1996; and be it further

RESOLVED, that the San Francisco Port Commission hereby authorizes staff to issue emergency contracts for construction and repair of the sewer piping below the Ferry Building, authorizes a 10% contingency for possible construction contract modifications, and further authorizes the Executive Director to accept the work upon final completion of the construction contracts.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 27, 1996.

_____
Secretary

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PORT OF SAN FRANCISCO

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MEMORANDUM

August 27, 1996

TO: MEMBERS, PORT COMMISSION
Commissioner Michael Hardeman, President
Commissioner Frankie G. Lee, Vice President
Commissioner Preston Cook
Commissioner James Herman
Commissioner Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of travel to the International Marine Transit Associations 21st Annual Conference in Vancouver, British Columbia, in accordance with Port's Fiscal year 1996-97 budget.

DIRECTOR'S RECOMMENDATION: APPROVE THE TRAVEL AS BUDGETED

Each year, the International Marine Transit Association (IMTA) sponsors its annual conference on recent trends and future developments in the marine transit industry. This year's conference is being hosted by BC Ferries in Vancouver British Columbia.

A member of the Port's Planning and Development Division has been asked to participate on a panel discussing "High Density Urban Area Ferry Systems". While at the conference, the Port representative will also have an opportunity to attend other presentations on marine safety, enhancing revenues of public ferry services and trends in new ship construction. In addition, the Port representative will tour BC Ferries terminals and examine the landing facilities at various locations. This information is of interest to the Port in the future placement of ferry landing facilities along the waterfront.

THIS PRINT COVERS CALENDAR ITEM NO. 9B

We have budgeted the following amounts for our current fiscal year budget to cover this activity:

Airfare:	$275.00
Hotel	$640.00
Meals	$144.00
Conference Registration	$272.50
Transportation	$120.00
TOTAL	**$1,451.00**

Item Prepared by: Sharon Lee Polledri
Director, Planning and Development

PORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-89

WHEREAS, the Executive Director is requesting authorization for one representative to travel to the International Marine Transit Association's 21st Annual Conference; and

WHEREAS, the purpose of this trip is to develop additional resources on the ferry and excursion industries and attract these businesses to the Port; and,

WHEREAS, the cost of this trip has been included in the Port Commission's Fiscal Year 1997 - 98 budget; therefore be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 27, 1996.

_____

Secretary

PORT OF SAN FRANCISCO

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Writer

MEMORANDUM

August 21, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of travel for one Port representative to attend the Breakbulk Transpo '96 in New Orleans, Louisiana, in accordance with the Port's Fiscal Year 1996-97 budget

DIRECTOR'S RECOMMENDATION: APPROVE THE TRAVEL AS BUDGETED

The Port is actively marketing its cargo facilities to breakbulk vessel operators. Attendance at the convention will allow the Port to reach key decision makers in this market in a timely and cost effective manner.

The Executive Director seeks approval of travel for one Port representative to represent the Port of San Francisco at the convention.

This request is in accordance with the Port Commission's Fiscal Year 1996/97 budget.

Prepared by: Peter Dailey
Acting Marketing Manager

THIS PRINT COVERS CALENDAR ITEM NO. 9C

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-90

WHEREAS, the Executive Director is seeking authorization for one Port representative to attend the Breakbulk Transpo '96 in New Orleans, Louisiana on September 28 through October 1, 1996; and

WHEREAS, attendance at the convention will allow the Port to reach key decision makers in this market in a timely and cost effective manner; and

WHEREAS, this request is in accordance with the Port Commission's Fiscal Year 1996/97 budget; now, therefore, be it

RESOLVED, that the Port Commission hereby approves this travel request.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 27, 1996.

_____
Secretary

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8/27/96

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

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MINUTES OF THE MEETING
AUGUST 27, 1996

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:05 p.m. The following Commissioners were present: Michael Hardeman, Frankie Lee, Preston Cook, James Herman and Denise McCarthy.

2. APPROVAL OF MINUTES - August 13, 1996

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

At 4:10 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following matters:

A. PUBLIC EMPLOYEE APPOINTMENT

1) Confirmation of Appointment of Director of Tenant & Maritime Services

B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - *This session is closed to any non-City/Port representative.**

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment ✓ Both

At 4:55 p.m., Commissioners Hardeman, Lee, Cook, Herman and McCarthy returned from executive session and convened in public session.

ACTION: Commissioner Lee moved approval to not disclose any information discussed in the executive session; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor.

3. EXECUTIVE

A. Executive Director's Report: Mr. Bouey reported the following:

At the last meeting, he indicated that staff was in the process of setting up the

advisory committee for the Hyde Street Harbor project. Its first meeting was held last Monday and another meeting is scheduled for September 9. The tone of the committee is one of enthusiasm and we are approaching the problem it its entirety. The National Park Service, Clean Water Program as well as Tenant Associations and the fishermen and the surrounding clubs are a part of the committee.

4. LEGISLATIVE

5. TENANT & MARITIME SERVICES

A. Approval of lease with the San Francisco Unified School District for Transit Shed A at Pier 80 and for 501 Cesar Chavez Boulevard. (Resolution No. 96-82)

Mr. Bouey stated that on a holdover basis, the School District currently occupies about 50,000 sq. ft. at Shed D and 14,000 sq.ft. of office space in the Administration Building at 501 Cesar Chavez Blvd. The tenant also occupies 11,050 sq. ft. of shed spacing at Shed A and an additional 2,110 sq.ft. of office space in the Administration Bldg. on leases that are respectively due to terminate on February 1, 1996 and March 1, 1996. Staff and tenant have agreed that the tenant will relocate all of its warehousing from Transit Shed D to Transit Shed A. This proposed lease will not prevent the immediate or future use of Pier 80 for container cargo handling or other maritime purposes. The combined premise is described as 66,500 sq. ft. in Transit Shed A, 16,110 sq. ft. in the Pier 80 Administration Building. The lease term is one year, commencing on August 1, 1996. The lease can be terminated upon 30 days notice started on August 1, 1997. The rent is $26,291 per calendar month and based upon a rental rate of $.27 per square foot for the shed and $.50 per sq. ft. for the office space. The new lease does not provide for any rent credits. In addition, the tenant will assume responsibility for janitorial service, lighting, maintenance and repair of the office space, as well as surrounding landscaping.

Commissioner Herman commented that he supports this lease based on the fact that it is a one year lease and the Port is protected by the 30-day cancellation clause. He added that this is an example of a permissible lease, wherein there is no major capital investment that would damage the lessee. He hopes that this serves as an example when leases are called for they are under these kinds of arrangements that don't inhibit the possibility of maritime cargo.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Approval of lease with the Crab Boat Owners Association on Jones Street near Pier 47 in Fisherman's Wharf. (Resolution No. 96-83)

Mr. Bouey stated that the Crab Boat Owners Association has occupied 2,717 sq. ft. of space adjacent to Pier 47 at Fisherman's Wharf for 18 years on a month to month basis. Their current rent is $.20 per sq.ft. It's been the long standing belief of this

administration that the fishing industry is the heart of Fisherman's Wharf. Its vitality is essential for the continued economic health for the other businesses located at Fisherman's Wharf. As the Commission is aware, meetings were held with the fishing industry to find out what they need to survive. Staff initiated a dialogue with representatives of the fishing industry and found out they needed subsidized ice, lower fuel costs, ability to get fuel on the weekends and dredging around the fuel dock. This lease is essentially the same as the license except the rent is cut in half from $.20 to $.10 per sq.ft. The Crab Owners Association has graciously agreed to make available the meeting hall space for meetings of any other fishing association subject to reasonable notice and insurance requirements. Staff has also agreed to a modified indemnity clause. This is a signal to the fishing industry that we view them as an integral part of the Port of San Francisco and we view it as a partnership.

Commissioner Cook inquired if other people in the immediate neighborhood may use the facility. Mr. Bouey replied that since we have other facilities to rent, this use is limited to the fishing industry. However, if the Commission desires, some kind of geographic boundary can be arranged by which other nonprofit organization can use this facility. An amendment will be brought back to the Commission for its approval. Commissioner Hardeman indicated that this is a good deal for both parties.

Mr. Miller from the Crab Boat Association stated that he and his group do not see any problem with sharing the facility with other nonprofit groups. He also commented that he appreciates the relationship between the fishing industry and the Port. He commended Mr. Bouey and Mr. Kirk Bennett for all their work and effort in bringing the relationship closer.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

C. Approval of a month-to-month lease with Clarence Washington for a shoe shine stand at the Ferry Building (Resolution No. 96-84)

Mr. Bouey stated that Mr. Smith operated the shoeshine stand at the Ferry Building from January 31, 1989 through June 30, 1996. Mr. Washington who operated the shoe shine stand before Mr. Smith desires to continue this operation at the Ferry Building. Staff believes that the bidding of this retail opportunity at this time is impractical because of the planned construction projects. Additionally, the Port is proceeding with plans to renovate the Ferry Building. Accordingly, a month-to-month lease has been negotiated with Mr. Washington for two spaces at a base rent of $100 per month vs. 10% percentage rent. Staff believes that it is in the Port's best interest to have a shoe shine stand at the Ferry Building.

Commissioner Herman inquired if Mr. Washington can move over to the north side of the building. Mr. Bouey replied that staff will be willing to find another site. This is a month-to-month lease. Mr. Washington can come back at any time he feels this space is not serving him well. Mr. Bouey added that he will have to consult with Property

Management to find a specific site for Mr. Washington's operation.

ACTION: Commissioner Herman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

6. FACILITIES & OPERATIONS

A. Authorization to award Contract No. 2620, "1996/1997 Dredging" to Dutra Construction. (Resolution No. 96-85)

Mr. Bouey stated that the Commission authorized bids for this contract approximately two months ago. One bid was received. This contract includes the required maintenance dredging at a number of specified Port facilities to accommodate current shipping needs and the flexibility to specify different sites for dredging if required. The budget for this contract is $400,000. However, a portion of the funds is not yet appropriated. Due to a limitation of funds appropriated at the time of award, the initial quantity awarded for will be $235,000. It is the Port's intention to raise the additional monies out of the surplus funds from last year when those additional funds become available through the ongoing supplemental process. The contract will then be amended to be increased by $170,000 as a Type I modification. The scope of this contract provides for between 100,000-110,000 cu. yards to be dredged.

Commissioner Cook asked for an explanation of the Port's priorities in dredging. Mr. Bouey replied that the initial dredging will be performed at Pier 27 because the service provider has indicated that they will be adding an additional service with a ship that has a deeper draft. Staff is also looking at Pier 94/96 to ensure that adequate draft for our cargo ships is maintained. Pier 35, is also a high priority. Commissioner Herman inquired about Pier 80. Mr. Bouey replied that this will be done some time in the future. If there is any indication of a possible impending operation at Pier 80, maintenance dredging can commence at the same time to ensure that it becomes available. Commissioner Herman added that in waiting too long, the cost becomes astronomical. Mr. Bouey responded that it would still be maintenance dredging. If it is dredged now, there is no revenue to offset the cost. Commissioner Herman requested that a report be sent to the Commission as to what the depth is on all those piers designated for cargo services. Mr. Cliff Jarrard, Chief Harbor Engineer, responded that a report will be provided to the Commission.

Commissioner McCarthy inquired if HRC preference applies on this contract. Mr. Jarrard replied that in this instance, HRC subcontracting does not apply because this is a vertically integrated operation, wherein a single contractor does all the work.

Commissioner Cook was concerned about the cost and the amount of dredging materials that have to be moved at Pier 27. He supports this resolution for dredging to honor the Port's lease so they have the ability to use that facility for maritime. However, the small amount of dredging needed at Pier 94/96 makes more sense to steer that particular tenant to that direction. He reminded staff that it would be more cost effective and

environmentally sound to discuss with the Pier 27 tenant the possibility of moving to Pier 94/96. Mr. Bouey stated that staff has engaged in conversations with the Pier 27 tenant. There is concern that the operator that handles the newsprint would like to move this newsprint operation elsewhere.

Commissioner Herman objected to any proposition that suggests a tenant that is performing cargo services would not be interested in a dredging arrangement. If it takes dredging to preserve them on a priority basis for cargo, it is an obligation of the Port. Staff should not do anything that would discourage those aspirations from people presently occupying the facility or prospective cargo tenants.

Commissioner Cook commented that he would rather work out something with the tenant at the newspaper terminal instead of dredging as an enticement for them to move to a facility that would accommodate them at a lesser cost to the Port and give them a reduction in what we are spending for dredging for a ship that comes in once a month. He's looking at efficiency and environmental concerns. He's not looking at moving a maritime tenant out. The Port needs to consolidate and watch its budget. A continual discussion with the tenant is necessary to try to minimize these costs.

Commissioner Herman commented that he too is in favor of minimizing costs in all areas that the Port can. If you take a look at the waterfront and see how few cargo piers there are, however, he is not in favor of hinting to anyone that they ought to move so the Port can save money on dredging or that there is an environmental problem. We should do everything to preserve any facility that is in cargo services and do nothing to approach any customer and urge that customer to move so that the Port can enjoy some saving in a natural deep harbor channel that needs maintenance dredging. Dredging is basic to a maritime facility that handles ships with cargo as well as for other reasons.

ACTION: Commissioner Lee moved approval; Commissioner Herman seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Authorization to rescind award of Contract No. 2610, "Pier 68 Shipyard Cranes Improvements" and to readvertise for bids. (Resolution No. 96-86)

Mr. Bouey stated that the Commission approved Contract 2610 to Rigging International. The work contemplated for that contract was primarily for Cranes 30 and 32 located at Pier 70. However, before the contract was executed by the City, the Port determined that it was preferable to focus on renovation work for Cranes 33 and 34, which serve Drydock #2. In an attempt to meet the concerns and the goals of San Francisco Drydock, Port staff sat down with Rigging International and attempted to work out a new scheme and payment. In the interim, Mr. Bouey received a call from a couple of Commissioners who indicated that they were concerned that the scope of the work and cost had changed dramatically. For that reason at the previous meeting, he asked this item be continued; examined it in greater depth and detail and came to a conclusion that the Commissioners were right. As such, he is asking the Commission to rescind the authorization to award and authorize staff to rebid. Included in the

resolution is that if an action should be taken and Rigging International argued otherwise, to preclude additional Port liability, staff also requests a termination for convenience.

Mr. Victor Rollandi from Rigging International indicated that he is thoroughly familiar with this project. Regarding the issue of whether or not there is an executed contract, their counsel's advice was the Controller's certification is not required for validation of this contract. His company has enjoyed an excellent, untarnished working relationship with the Port nearly thirty years, encompassing a full range of crane service and support. The termination for a convenience clause applies to unfair and arbitrary conduct by the Port. The Port made a bid in good faith and they have worked with the Port in good faith to modify the scope of the work. The Port's contention that there was an apparent misunderstanding over the priority of repairing various cranes is hard for them to accept because SF Drydock has been involved in each phase of the work. The work priorities were clear in the bid specifications - Cranes 30 and 32. The Port's position was also undercut by the Port's August 21 memo which contrary to any misunderstanding refers to the Port and SF Drydock jointly determining that it was preferable to focus on cranes 33 and 34. Furthermore, in Mr. Bouey's letter of today to Congressman Dellums is correct which states ..."the Port learned of this situation within days of the award." The award was made May 28. The contract was dated June 12. In short, he believes that to follow staff's recommendation would be less in good faith. They have carefully investigated the facts that have led to the present situation. They met with staff and disclosed sensitive information. The right to terminate for convenience cannot be absolute. It has to be based on fairness and equity. He pointed out that the Port knew all the relative facts before awarding the contract to them. Their performance, integrity, HRC compliance, as a matter of record, served the Port well and it is a testament of their good faith. He asked that the Commission table this motion so it can conduct its own inquiry so it can make its own vote. This is an honorable course for good government to pursue. He hopes that the Commission gives its due consideration.

Mr. Bouey commented that the Port has enjoyed a wonderful relationship with Rigging International. The Port understands their concern and their feelings about what has happened today. Notwithstanding that , staff is hopeful that this does not irreparably harm our relationship. It is the Port's intention to continue to deal with Rigging International in good faith.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

7. PLANNING & DEVELOPMENT

A. Amending Resolution No. 95-7 to authorize the management of any additional grant funds from the State of California, Department of Boating and Waterways (Cal Boating) for the Pier 52 Public Boat Launch project. (Resolution No. 96-87)

Mr. Bouey stated that the Port previously accepted a $295,000 grant from the

Department of Boating and Waterways for the repair of a public boat launch at Pier 52. The current design envisions a small parking lot on the westside of Terry Francois Blvd. The lot would provide approximately 20 vehicle and trailer spaces and an area for a boat wash. The design team estimates the cost of the improvements at $198,000. Staff has submitted another application for a grant to pay for the parking lot. Cal Boating staff, in turn, has requested that the Commission amend its original resolution to allow the acceptance of any future grant resources for the project.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

8. ADMINISTRATION

9. CONSENT CALENDAR

A. Approving a declaration of an emergency for sewer repair work at the Ferry Building. (Resolution No. 96-88)

B. Approval of travel to the International Marine Transit Association's 21st Annual Conference in Vancouver, British Columbia, in accordance with the Port's Fiscal Year 1996-97 budget. (Resolution No. 96-89)

C. Approval of travel for one Port representative to attend the Breakbulk Transpo '96 in New Orleans, Louisiana, in accordance with the Port's Fiscal Year 1996-97 budget. (Resolution No. 96-90)

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; items on the consent calendar were adopted.

The meeting was adjourned at 5:40 p.m.

SAN FRANCISCO
PORT COMMISSION

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REGULAR MEETING
4:00 P.M., TUESDAY, SEPTEMBER 10, 1996
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

AGENDA

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - August 27, 1996

3. **EXECUTIVE**

   A. Executive Director's Report

4. **LEGISLATIVE**

5. **TENANT & MARITIME SERVICES**

   A. Approval of percentage rental adjustment for Alioto's #8 and Alioto Expo Restaurants at Fisherman's Wharf. (Resolution No. 96-69)

   B. Approval for the Executive Director to enter into an Entry Permit with Kajima International for Environmental and Engineering Investigations and Amendment of the Indemnity Agreement with China Basin Ballpark Company ("Giants"). Resolution No. 96-91)

   C. Consent to License Agreement between the San Francisco Redevelopment Agency and Oriental Warehouse Associates for installation of a forced main sewer line located under Delancey Street, between Brannan Street and the Embarcadero. (Resolution No. 96-92)

6. **FACILITIES & OPERATIONS**

   A. Authorization to award Contract No. 2616, "Pier 35, Escalator/Elevator Design/Build," to CICO-R&W, a Joint Venture. (Resolution No. 96-93)

   B. Approval to authorize the execution of Phase 4 of the Professional Services Contract No. SA 3920019, "Asbestos Abatement Oversight and Consultation Services," with Galson Corporation at Pier 48. (Resolution No. 96-94)

7. **PLANNING & DEVELOPMENT**

8. **ADMINISTRATION**

9. **CONSENT CALENDAR**

10. **NEW BUSINESS / PUBLIC COMMENT**

11. **EXECUTIVE SESSION**

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both
An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. **ADJOURNMENT**

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

PORT OF SAN FRANCISCO

MEMORANDUM

September 5, 1996

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TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval of percentage rental adjustments for Alioto's #8 and Alioto's Exposition restaurants at Fisherman's Wharf

DIRECTOR'S RECOMMENDATION: APPROVE PERCENTAGE RENTAL ADJUSTMENTS AND TERMS SET FORTH HEREIN

In 1970, the Port entered into a group of long term (66 year) restaurant leases at Fisherman's Wharf. The leases were dated as of May 1, 1970. Two of the leases are the subject of this Memorandum: Alioto's #8 (Port Lease No. L-7491, with Alioto Fish Co., Ltd., as tenant), and Alioto's Exposition (originally Exposition Fish Grotto, as tenant, assigned to Alioto Fish Co., Ltd., Port Lease No. L-7495).

All of the original restaurant leases set forth the following categories and amounts for percentage rent:

Alcoholic beverages and all other items sold through the bar	6.5%
Food	5.0%
All other Uses	6.5%

THIS PRINT COVERS CALENDAR ITEM NO. 5A

Under the terms of the leases, the rates of percentage rent are subject to review and adjustment every 25 years if the percentage rents for like uses in San Francisco in the vicinity of the leased premises have increased or decreased as of the adjustment date. If the Port and the tenant are unable to agree on the applicable adjustment, than the Port determines the adjustment, and the tenant has the right to terminate the lease without liability for future rent.

The first such 25 year adjustment was to take place on May 1, 1995 (the "Effective Date"). The Port and the tenants entered into agreements to extend the time for setting the adjustment, with the final rental adjustment retroactive to the Effective Date, to allow the Port and the tenants to attempt to reach agreement on the amount of the adjustment.

On February 27, 1996, and April 9, 1996, the Port Commission approved agreements between the Port and all of the Fisherman's Wharf tenants whose leases were subject to adjustment during 1995, except for the two leases which are the subject of this memorandum. The primary issue of disagreement between the Port and Alioto Fish Co., Ltd. concerned the percentage rental rate which should be applicable to a small parking lot operated on part of the Alioto's Exposition leased premises.

In 1974, the Alioto's Exposition lease was amended to add a small parcel of land which is used by the tenant for a parking lot, which is operated in conjunction with another small parcel of Port property under a separate month-to-month license (Port License No. 9545, dated May, 1977). When this property was added to the Alioto's Exposition lease, no separate category was created under the lease for the payment of percentage rent for the parking use. Therefore, for many years the tenants have paid only 6.5% of gross sales for the parking use.

The Port generally obtains percentage rental rates of 66% (after deducting parking taxes actually paid) for parking lots, although the lots on Port property at Fisherman's Wharf (and other lots in the vicinity of Fisherman's Wharf) are much larger than the lot operated by Alioto Fish Co., Ltd.

After long negotiations, Port staff and Alioto Fish Co., Ltd. have agreed, subject to the approval of the Port Commission, to the following:

1. The categories and rates of percentage rent under the Alioto's #8 lease will be as follows:

Food	6.5% of gross sales

Alcoholic beverages and all other items sold through the bar	6.5% of gross sales
All Other Items	8.5% of gross sales

2. The categories and rates of percentage rent under the Alioto's Exposition lease will be as follows:

Food	6.5% of gross sales
Alcoholic beverages and all other items sold through the bar	6.5% of gross sales
Parking	30% of gross sales after deducting parking taxes actually paid
All Other Items	8.5% of gross sales

3. The rent owing under Port License No. 9545 (the "License") shall be 30% of gross sales after deducting any parking taxes actually paid.

4. In the event that the Port terminates the License, then the tenant of the Alioto's Exposition lease (the "Tenant") will have the right, by sending a written demand to the Port within 30 days after the License is terminated, to obtain a redetermination of the rate of percentage rent owing for the remaining parking use. Upon such redetermination, the rate of percentage rent for parking shall be the rate of percentage rent for like uses in San Francisco in the vicinity of the leased premises. Thereafter, Port staff and Tenant shall attempt to reach agreement on the applicable rate of percentage rent for the parking use. In the event that Port staff and Tenant are unable to reach agreement as to the proper rate of percentage rent for the parking use, Port staff will make its recommendation to the Port Commission, and the rate shall be finally determined by the Port Commission at a meeting at which Tenant may be heard. Tenant shall have the right to terminate the Alioto's Exposition lease within six (6) months after the final setting of percentage rent by the Port Commission. In no event shall the rate of percentage rent upon such redetermination exceed 25% of gross sales after deducting any parking taxes actually paid.

5. The percentage rent adjustments are to be retroactive to the Effective Date, except that the Tenant will be required to pay only 50% of the retroactive rent applicable to the

parking use (and 100% of the retroactive rent applicable to all other uses under the leases), plus $5,000.

Port Staff recommends that the Port Commission approve the accompanying Resolution No. 96-69.

Prepared by: Lewis Wiseman, Director, Tenant and Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-69**

WHEREAS, Section B 3.581 of the City Charter empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under Section B 3.581 of the City Charter, leases granted to made by the Port Commission shall be administered exclusively by the operating forces to the Port Commission;

WHEREAS, Port Lease Nos. L-7491 and L-7495, with Alioto Fish Co. Ltd. as tenant ("Subject Leases") provide for adjustment in the percentage rents based on the determination that percentage rents for like uses in San Francisco in the vicinity of the leased premises have increased or decreased as of the date of the determination; and

WHEREAS, Port License No. 9545 (the "License") is month-to-month; now therefore, be it

RESOLVED, that the San Francisco Port Commission determines that the rates of percentage rent for the uses of the Subject Leases in the vicinity of the Subject Leases have increased; and be it further

RESOLVED, The categories and rates of percentage rent under Port Lease No. L-7491 (Alioto's #8) will be as follows:

Food	6.5% of gross sales
Alcoholic beverages and all other items sold through the bar	6.5% of gross sales
All Other Items	8.5% of gross sales,

and be it further

RESOLVED, The categories and rates of percentage rent under Port Lease No. L. 7495 ("Alioto's Exposition") will be as follows:

Food	6.5% of gross sales

Alcoholic beverages and all other items sold through the bar	6.5% of gross sales
Parking	30% of gross sales after deducting parking taxes actually paid
All Other Items	8.5% of gross sales;

and be it further

RESOLVED, The rent owing under the License shall be 30% of gross sales after deducting any parking taxes actually paid; and be it further

RESOLVED, In the event that the Port terminates the License, then the tenant of the Alioto's Exposition lease (the "Tenant") will have the right, by sending a written demand to the Port within 30 days after the License is terminated, to obtain a redetermination of the rate of percentage rent owing for the remaining parking use. Upon such redetermination, the rate of percentage rent for parking shall be the rate of percentage rent for like uses in San Francisco in the vicinity of the leased premises. Thereafter, Port staff and Tenant shall attempt to reach agreement on the applicable rate of percentage rent for the parking use. In the event that Port staff and Tenant are unable to reach agreement as to the proper rate of percentage rent for the parking use, Port staff will make its recommendation to the Port Commission, and the rate shall be finally determined by the Port Commission at a meeting at which Tenant may be heard. Tenant shall have the right to terminate the Alioto's Exposition lease within six (6) months after the final setting of percentage rent by the Port Commission. In no event shall the rate of percentage rent upon such redetermination exceed 25% of gross sales after deducting any parking taxes actually paid; and be it further

RESOLVED, The percentage rent adjustments are to be retroactive to May 1, 1995, except that Alioto Fish Co., Ltd. will be required to pay only 50% of the retroactive rent applicable to the parking use (and 100% of the retroactive rent applicable to all other uses under the leases), plus $5,000.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 10, 1996.

_____
Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

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Writer

September 4, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Approval for the Executive Director to Enter into an Entry Permit with Kajima International for Environmental and Engineering Investigations and Amendment of the Indemnity Agreement with China Basin Ballpark Company ("Giants").

DIRECTOR'S RECOMMENDATION: APPROVE RESOLUTION

The Giants desire to conduct additional environmental and engineering studies of certain Port properties within the area commonly known as Pier 46B/Seawall Lot 336. These investigations are intended to assist the Giants in determining the suitability of the Property for a ballpark (the "Project") and are a necessary first step to negotiate the lease. The Giants have contracted with Kajima International for construction management. Kajima will contract for the environmental and engineering investigations. The Port desires to provide this permit to Kajima to assist the Giants in investigating the Property.

This permit does not commit the Port to issuance of any additional permits to allow any person to carry out the Project when the investigations are completed. Kajima will provide the Port with copies of all boring logs, sample and laboratory test results promptly upon receipt and copies of any reports prepared by them or their contractors documenting the results of the work conducted pursuant to this permit.

THIS PRINT COVERS CALENDAR ITEM NO. **5B**

The Port's standard entry permit requires a broad indemnity, including coverage for damage to utilities and hazardous material investigations or remediation efforts mandated by other governmental agencies regardless of the fault or negligence of the Permittee. In this case the Giants and their consultants have requested that the indemnity be limited in several respects, largely because the Giants have advised that such insurance is not available for such risks. The indemnity in the permits to the consultants will not cover damages to utilities and liability for pre-existing toxics due to no fault of the consultants. The Giants have agreed to indemnify the Port for these risks with certain limitations. The Giants will pay 50% of the first $100,000.00 and 75% of the next $600,000.00 of such costs, whether or not the Giants proceed with the Project. If the Giants decide not to proceed with the Project, their liability terminates three years after they notify the Port of their decision not to pursue the Project and regardless of the cause of the liability. This indemnity was previously accepted by the Commission and the Giants now request it be amended to include the Kajima entry permit.

The Giants have expressed a strong commitment in proceeding with this Project and an intent to assume environmental remediation responsibilities with the Project once they have entered into a lease with the Port.

Prepared by: DENNIS P. BOUEY
Executive Director

I:\KAJIMA.JR

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-91

WHEREAS, the Giants desire to conduct additional environmental and engineering studies of certain Port properties within the area commonly known as Pier 46B/Seawall Lot 336. These investigations are intended to assist the Giants in determining the suitability of the Property for a ballpark (the "Project"); and

WHEREAS, the Giants have contracted with Kajima International for construction management. Kajima will contract for the environmental and engineering investigations. The Port desires to provide this permit to the Kajima to assist the Giants in investigating the Property; and

WHEREAS, this permit does not commit the Port to issuance of any additional permits to allow any person to carry out the Project when the investigations are completed. Kajima will provide the Port with copies of all boring logs, sample and laboratory test results promptly upon receipt and copies of any reports prepared by them or their contractors documenting the results of the work conducted pursuant to this permit; and

WHEREAS, the Port's standard entry permit requires a broad indemnity, including coverage for damage to utilities and hazardous material investigations or remediation efforts mandated by other governmental agencies regardless of the fault or negligence of the Permittee. In this case the Giants and their consultants have requested that the indemnity be limited in several respects, largely because the Giants have advised that such insurance is not available for such risks. The indemnity in the permits to the consultants will not cover damages to utilities and liability for pre-existing toxics due to no fault of the consultants. The Giants have agreed to indemnify the Port for these risks with certain limitations. The Giants will pay 50% of the first $100,000.00 and 75% of the next $600,000.00 of such costs, whether or not the Giants proceed with the Project. If the Giants decide not to proceed with the Project, their liability terminates three years after they notify the Port of their decision not to pursue the Project and regardless of the cause of the liability; and

WHEREAS, this indemnity was previously accepted by the Commission and the Giants now request it be amended to include the Kajima entry permit; and

WHEREAS, if the Giants decide not to proceed with the Project, their liability terminates three years after they notify the Port of their decision not to pursue the Project; and

WHEREAS, the Giants have expressed a strong commitment in proceeding with this Project and an intent to assume environmental remediation responsibilities once they have entered into a lease with the Port; and

RESOLVED, that the San Francisco Port Commission hereby approves the entry permit with Kajima International and the First Amendment to the limited indemnity agreement with the Giants, substantially in the form attached hereto and that the Executive Director is hereby authorized in consultation with the City Attorney to execute the agreements and any other necessary documents and to take all such actions as necessary to carry out the intent of the agreements.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 10, 1996.

_____

PERMIT TO ENTER PROPERTY IN CONNECTION WITH ENGINEERING AND ENVIRONMENTAL INVESTIGATIONS

This permit to Enter and Use Property (the "Permit") is entered into this _____ day of August, 1996, by and between the City and County of San Francisco ("City"), a municipal corporation acting through the San Francisco Port Commission ("Port"), and Kajima International, Inc. ("Kajima"), a _____ corporation ("Permittee").

This Permit is entered into on the basis of the following facts, understandings and intentions of the Parties:

A. Permittee desires to conduct engineering and environmental studies of the seawall and facilities on certain Port property within the area commonly known Pier 46B/Seawall Lots 335 and 336 (the "Property") in furtherance of determining its suitability for a ballpark (the "Project").

B. The Port desires to provide this Permit to assist Permittee in investigating the Property on behalf of China Basin Ballpark Company LLC. The Port has no budgeted funds to assist Permittee in performing such investigations or in carrying out the Project.

C. This Permit does not commit the Port to issuance of any additional Permits to allow any person to carry out the Project when the engineering or environmental investigations are completed.

D. The Port and Permittee wish to set forth their understandings as they relate to Permittee's use of the Property for the engineering and environmental investigations.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, THE CITY, THE PORT AND PERMITTEE HEREBY AGREE AS FOLLOWS:

Section 1. Grant of Use. Port hereby grants to Permittee and its contractors and consultants a temporary, non-possessory, non-exclusive right to enter upon and use that certain real property owned by the Port, said property being more particularly shown on Exhibit "A" attached hereto ("Permit Area"). Permittee's use of the Permit Area shall be subject to the conditions and restrictions set forth in this Permit.

Section 2. Use of the Permit Area. Permittee shall use the Permit Area for the sole purpose of undertaking the engineering and environmental investigation activities described in the attached Exhibits "B" and "C" (the "Permitted Activities"). Any amendments or alterations to the Permitted Activities to be performed by the Permittee or its contractors and consultants pursuant to this Permit must be approved in writing by Port prior to performance of the work.

Permittee shall provide the Port with copies of all boring logs, sample or laboratory test results promptly upon receipt and a copy of any reports prepared by Permittee or its contractors and consultants documenting the results of the work conducted by Permittee pursuant to this Permit. If any investigation permitted hereby involves the drilling or excavation of holes having a diameter dimension that could create a safety hazard for persons, said holes shall, during any drilling or excavation operations, be carefully safeguarded and

shall upon the completion of said drilling or excavation operations be refilled (and compacted to the extent necessary) to the level of the original surface penetrated by the drilling or excavation. Any hole drilled or evacation shall, if not refilled and compacted at the end of each day's operations, be carefully safeguarded and secured after the completion of each day's work. Except for wells needed for subsequent monitoring or wells Port requests Permittee to leave in place, Permittee shall abandon any wells placed on the Permit Area in accordance with San Francisco Department of Public Health protocols.

Section 3. Conditions Precedent. Permittee's right to use the Permit Area is expressly subject to Permittee having provided to Port satisfactory evidence of the insurances required pursuant to Section 13 of this Permit and proof that each contractor or consultant possesses the necessary licenses and/or certifications required by California regulatory agencies.

Upon issuance of this Permit, Permittee shall pay Port a fee of $25.00 per hole drilled or $50.00 per excavation and compensate Port for any additional costs directly associated with the issuance of the Permit and oversight of activities related thereto, such as overtime costs for Port employees required to open facilities after regular business hours.

Section 4. Term of Permit. The rights granted pursuant to this Permit are temporary only and shall commence on September ___, 1996, and shall expire on the sooner of _____ 1996, or completion of the tasks described in Exhibits B and C. If

Permittee fails to materially comply with the terms and conditions of this Permit and such failure is not cured by Permittee within five (5) days of notice by Port, or in the case of a non-compliance which cannot be cured within five (5) days, Permittee has not commenced and is not diligently pursuing the cure of said non-compliance, this Permit shall terminate and Permittee shall forthwith remove all equipment and installations from the Permit Area, and shall restore the Permit Area to its former condition if the work has a material adverse effect on the Permit Area.

Section 5. No Interference With Use. Permittee shall not materially interfere with or obstruct Port's, Port's tenant or tenant's invitee's use of the Permit Area, or their conduct of normal business operations thereon. Work performed pursuant to this Permit must be conducted in or at a reasonable time and location acceptable to Port.

Permittee will take reasonable action to locate utilities that may be located in, on, under or about the Permit Area and protect the same from damage. Permittee will immediately notify Port of any damage to subsurface utilities.

Port shall provide Permittee with those records within its possession that are reasonably available to it concerning utilities located in, on, under or about the Permit Area. Port shall also make available to Permittee its records and employees to facilitate Permittee's location of utilities. Permittee acknowledges that Port does not have complete and accurate

information concerning the location of utilities and does not have the resources to review all of the historical records within its possession which may contain information concerning the location of utilities.

Section 6. Compliance With Laws/Hazardous Materials.

a. Definitions.

(1) "Environmental Laws" means any federal, state or local laws, ordinances, regulations or policies relating to Hazardous Material (including, without limitation, their use, handling, transportation, production, disposal, discharge or storage) or to health and safety, industrial hygiene or environmental conditions in, on, under or about the Permit Area, including, without limitation, soil, air, bay water and groundwater conditions.

(2) For purpose of this Permit, the term "Handle" or "Handling" means to use, generate, process, produce, package, treat, store, emit, discharge or dispose.

(3) For purpose of this Permit the term "Hazardous Material" shall mean any substance or material which has been determined by any state, federal, or local government authority to be a hazardous or toxic substance or material, including without limitation, any hazardous substance as defined in Section 101(14) of CERCLA (42 USC Section 9601(14)) or Sections 25281(f) or 25316 of the California Health and Safety Code, and any hazardous material as defined in Section 25501(k) of the California Health and Safety Code, and any additional

substances or materials which at such time are classified or considered to be hazardous or toxic under any federal, state or local law, regulation or other exercise of governmental authority.

(4) For purposes of this Permit, the term "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of any Hazardous Material (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Material or pollutant or contaminant).

b. Compliance with Laws. All activities performed on the Permit Area by Permittee, its officers, agents, employees, contractors and subcontractors (collectively, "Agents") shall be done in a safe and reasonable manner, in accordance with all laws, regulations and orders of any governmental or other regulatory entity, and in such manner as not to cause or allow any Hazardous Material to contaminate soils or groundwater on, under or about the Permit Area. Before beginning any work in the Permit Area, Permittee shall obtain any and all permits, licenses and approvals of all regulatory agencies that are required to commence and complete the Permitted Activities.

c. No Hazardous Materials. Except for Hazardous Materials, including groundwater and soil containing Hazardous Materials, extracted from the Permit Area by Permittee in

accordance with the Permitted Activities, and any Hazardous Materials reasonably necessary for conducting the Permitted Activities under this Permit, Permittee covenants and agrees that neither Permittee nor any of its Agents shall handle any Hazardous Materials in, on, under or about the Permit Area. All Hazardous Materials handled by Permittee on the Permit Area during the term of this Permit shall be handled in compliance with all Environmental Laws. Permittee shall protect its employees and the general public in accordance with all Environmental Laws. Port may from time to time request, and Permittee shall be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being handled in a manner which complies with all Environmental Laws.

d. Removal of Hazardous Materials. Prior to the termination of this Permit, Permittee, at its sole cost and expense, shall cause to be removed any and all Hazardous Materials extracted from or introduced in, on, under or about the Property by Permittee or its Agents. All costs of storage, shipping and disposal of extracted soils and groundwater shall be the responsibility of Permittee including, without limitation, the costs of preparation of shipping papers. Permittee will appropriately contain and label Hazardous Materials and non-hazardous materials and will promptly inform the Port that such action has been performed.

Permittee shall prepare a Hazardous Materials manifest utilizing Port's EPA identification number. Port agrees to provide an authorized representative to execute any Hazardous Materials manifest required by law. Permittee will consult with the Port concerning the treatment or disposal of Hazardous Materials. At Port's direction, Permittee will contract with Port selected transporter and Port selected disposal facilities for removal, transport and disposal of all Hazardous Materials required to be shipped with a Hazardous Materials manifest. Notwithstanding the foregoing, Permittee shall not be an owner, operator, generator, arranger, or transporter as defined by the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), or the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the California Porter-Cologne Water Quality Act, or any other applicable law or regulation.

Section 7. No Costs to Port. Permittee shall bear all costs or expenses of any kind or nature in connection with the Permitted Activities, including but not limited to all costs of excavation, construction, operation, sampling, monitoring, testing, transporting and disposing of soil or groundwater and backfilling, and shall keep the Permit Area free and clear of any mechanics' liens or other claims of lien arising out of or in any way connected with its use of the Permit Area.

Section 8. Repair of Damage. If any portion of the Permit Area, or any other property of the Port or its employees located

on or about the Permit Area, is damaged by any of the activities conducted by Permittee, its officers, agents, employees, contractors or subcontractors, Permittee shall immediately, at its own cost and expense, repair any and all such damage and restore said property to its previous condition.

Section 9. Indemnity.

(a) General Indemnity. Permittee agrees to indemnify, hold harmless and defend, the City and Port and their officers, agents and employees, against any and all claims, judgments, losses, costs, damages, penalties, fines or liabilities of whatever kind (collectively "Claims") arising in any manner out of (i) any injury to or death of any person or damage to or destruction of any property occurring in, on, under or about the Permit Area, or any part thereof, whether to the person or property of Permittee, its employees, agents, consultants, contractors, or subcontractors (collectively "Agents"), or third persons, resulting from any use or activity of Permittee or its Agents under this Permit, (ii) any failure by Permittee to faithfully observe or perform any of the terms, covenants or conditions of this Permit, or (iii) the use of the Permit Area or any activities conducted thereon under this Permit by Permittee or its Agents; except only (1) to the extent of Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative, or (2) to the extent of claims resulting from damage to

subsurface utilities caused without fault or negligence of Permittee or its Agents.

(b) Toxics Indemnity. Permittee agrees to indemnify, hold harmless and defend City and Port and their officers, agents and employees, from and against any and all claims, demands, actions, causes of actions or suit (actual or threatened), losses, costs, expenses, obligations, liabilities, or damages, including interest, penalties, engineering consultant and attorneys' fees of every kind, nature and description, (collectively "Toxics Claims") resulting from (i) any Release of a Hazardous Material to the extent that such Release is directly created or aggravated by the specific investigation activities undertaken by Permittee pursuant to this Permit, (ii) any handling of any Hazardous Material, including that in soil or groundwater, extracted from the Permit Area by Permittee in connection with the specific investigation activities undertaken by Permittee pursuant to this Permit, or (iii) any breach of or failure to duly perform or observe any term, covenant or agreement in this Permit to be performed or observed by Permittee, including but not limited to, any violation of any Environmental Law; except only to the extent of Toxic Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative.

(c) The foregoing indemnity obligations in paragraph 9(a) and 9(b) shall include reasonable attorney's fees, investigation costs and all other reasonable costs and expenses

incurred by City or Port from the first notice that any Claim or Toxics Claim is or may be made. The provisions of this paragraph shall survive termination of this Permit.

(d) In addition to Permittee's obligation to indemnify and hold harmless City and Port, Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City and Port from any Claim or Toxics Claim which actually or potentially falls within the indemnification provisions of paragraph 9(a) or 9(b), even if the allegations are or may be groundless, false or fraudulent. Permittee's obligations to defend shall arise at the time such Claim or Toxics Claim is tendered to Permittee by City or Port and shall continue at all times thereafter.

(e) Nothing in this Section 9 or elsewhere in this Permit shall require Permittee to indemnify, hold harmless or defend City or Port or any of its commissions, departments, boards, officers, agents or employees from any Claims or Toxics Claims arising out of (i) environmental conditions at or emanating from the Permit Area, including Releases of Hazardous Materials on, in, under or about the Permit Area, which were not directly created or aggravated by the specific investigation activities undertaken by Permittee pursuant to this Permit, or (ii) the disposal of Hazardous Materials removed from the Permit Area under a Hazardous Materials manifest executed by an authorized representative of Port.

Section 10. Limitation on Assignment. This Permit is personal to Permittee and shall not be assigned.

Section 11. Waiver of Liability. The Port shall not be liable for any damage to the property of Permittee, its officers, employees, agents, contractors or subcontractors, or their employees, or for any bodily injury or death to any such officer, employee, agent, contractor or subcontractor, or their employees, resulting or arising from the condition of the Permit Area or its use by Permittee with the exception of damage or injury caused directly by the active, willful or intentional misconduct of the Port, its officers, agents or employees.

Section 12. Removal of Equipment and Installations. Upon completion of activities on the Permit Area, Permittee shall remove all equipment and installations from the Permit Area.

Section 13. Insurance. (a) During the term of this Permit, Permittee and its contractors and consultants shall cause to be maintained in full force and effect at their own cost and expense at all times while Permitted Activities are being conducted, insurance in the following amounts and coverages:

(i) Workers' Compensation, with Employers' Liability limits not less than $1,000,000 each accident.

(ii) Comprehensive General Liability Insurance with limits not less than $2,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations, and $2,000,000 General Annual Aggregate

Limit (other than Products-Completed Operations). The Comprehensive General Liability Insurance provided shall cover any property damage or personal injury resulting from any drilling or excavation conducted as part of the Permitted Activities. However, this provision shall not apply to claims relating to investigation or remediation of any environmental conditions on the Property.

(iii) Comprehensive Automobile Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned and Non-owned and hired auto coverage, as applicable.

(b) During the term of this Permit, Permittee shall also require its contractors and consultants to maintain in full force and effect at their own cost and expense at all times while Permitted Activities are being conducted, Contractor's Pollution Legal Liability Insurance with combined single limit of $2,000,000 each claim, $2,000,000 aggregate, and with coverage to include legal liability arising from the sudden and accidental release of pollutants, and no less than a one-year extended reporting period.

(c) Comprehensive General Liability, Comprehensive Automobile Liability, and Contractor's Pollution Liability Insurance policies shall be endorsed to provide the following:

(1) That the City and County of San Francisco, the Port of San Francisco and their officers, agents, and employees are named as Additional Insureds; and

(2) That such policies are primary insurance to any other insurance available to the Additional Insureds with respect to any claims arising out of this Permit and that insurance applies separately to each insured against whom claim is made or suit is brought.

(d) All policies and certificates shall be endorsed to provide that no cancellation, major change of coverage, or expiration shall become effective or occur until at least 30 days after Permittee, its consultant or contractor, delivers and Port receive's advance written notice as provided in Section 14 of this Permit. Permittee, upon notification of receipt by Port of any such notice, shall forthwith file with Port a certified copy of the required new or renewal policy or certificate for such policy. At the time of making any application for an extension of time, Permittee shall submit evidence that the policies will be in effect during the requested additional period of time.

(e) If at any time during the term of this Permit, Permittee, its consultants contractors or subcontractors, as the case may be, fails to maintain the required insurance in full force and effect, all work under the Permit shall be discontinued immediately, and shall not resume until notice is received by Port that the required insurance has been restored to

full force and effect and that the premiums therefore have been paid for a period satisfactory to the Port. Failure to maintain the required insurance will be sufficient cause for immediate termination of the Permit notwithstanding the notice required under Section 4 of this Permit.

(f) Approval of insurance by Port shall not relieve or decrease the liability of Permittee, its consultant or contractors or subcontractors, hereunder.

(g) Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencement of any operations under this Permit, with complete copies of policies to be furnished promptly upon City request.

Section 14. Notice. Any notices required to be given or which any party desires to give under the terms of this Permit shall be given by personal delivery, or by deposit with the United States Postal Service, certified mail, return receipt requested, and postage prepaid, addressed to the party to be served as follows:

To Port: Director, Facilities and Operations
Port of San Francisco
Ferry Building, Suite 3100
San Francisco, CA 94111

To Permittee: _____
_____
_____
_____

The Parties hereto may give notice pursuant to this section of other persons to receive future notices on their behalf. Notices herein shall be deemed given on the date of personal delivery or two (2) business days after the proper deposit of the same with the United States Postal Service.

Section 15. Miscellaneous. This Permit may be amended or modified only by a writing signed by each of the Parties hereto. No waiver by a Party of any of the provisions of this Permit shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. This Permit may be executed in one or more counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. The paragraph headings of this Permit are for convenience of reference and shall be disregarded in the interpretation of this Permit.

Section 16. Condition of Property/Security. The Permit Area is accepted "as-is." Permittee shall keep its work sites in the Permit Area safe and secure, provided, however, that Permittee shall not be obligated to correct, repair or modify any pre-existing conditions of the Property.

Section 17. Waiver of Claims. Permittee hereby waives on behalf of itself and its heirs, successors, and assigns, any and all rights which it may have to file a claim or bring an action of any kind or character against the City or its officers, agents, or employees, for damage to property or personal injury,

including death, which might arise out of the use of the Property under this Permit, except only to the extent of Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative.

Section 18. Entry Under Permittee's Authority. This Permit to Enter granted to Permittee shall include all employees, agents, contractors, subcontractors and consultants of Permittee. Permittee assumes all responsibility for the safety of all persons and property on the Permit Area pursuant to this Permit. All work performed in the Permit Area and all persons entering this Permit Area and all property and equipment placed therein in furtherance of the permission granted herein is presumed to be with the express authorization of Permittee.

Section 19. Attorneys Fees. If the City or Port or Permittee commences an action against any other party to this Permit arising out of or in connection with this Permit, the prevailing party shall be entitled to recover from the losing party reasonable attorney's fees and cost of suit.

Section 20. Time is of the Essence. Time is of the essence as to each and every provision of this Permit.

Section 21. California Law. This Permit shall be construed and interpreted in accordance with the Laws of the State of California and City's Charter. Venue for purposes of filing any legal action or initiating any legal proceeding arising out of this Permit shall lie in San Francisco, California, which shall be deemed to be a convenient forum.

Section 22. Authority. If Permittee signs as a corporation or a partnership, each of the persons executing this Permit on behalf of Permittee does hereby covenant and warrant that Permittee is a duly authorized and existing entity, that Permittee has and is qualified to do business in California, that Permittee has full right and authority to execute this Permit and that each and all of the persons signing on behalf of Permittee are authorized to do so. Upon Port's request, Permittee shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties.

Section 23. Amendments. No amendment of this Permit or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

Section 24. Severability. Except as is otherwise specifically provided for in this Permit, invalidation of any provision of this Permit, or of its application to any person, by judgment or court order, shall not affect any other provision of this Permit or its application to any other person or circumstance, and the remaining portions of this Permit shall continue in full force and effect, unless enforcement of this Permit as invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purposes of this Permit.

Section 25. Wavier The failure of either party to insist on performance of any provision of this Permit shall not be construed as a waiver of that provision in any later instance.

"PERMITTEE"

KAJIMA, INC.

By:_____

"PORT"

CITY AND COUNTY OF SAN FRANCISCO a municipal corporation, by and through the PORT OF SAN FRANCISCO

By:_____
Dennis P. Bouey
Executive Director

Approved As To Form:

LOUISE H. RENNE
City Attorney

By:_____
Deputy City Attorney

g:\jwr\kajima.1

FIRST AMENDMENT

This First Amendment to the May 17, 1996 Agreement by and between the City and County of San Francisco, a municipal corporation acting through the San Francisco Port Commission ("Port"), and China Basin Ballpark Company LLC, a Delaware limited liability company ("Giants") is entered into this _____ day of September, 1996.

RECITALS

This Amendment is entered into on the basis of the following facts, understandings and intentions of the Parties:

A. The Giants desire to have Kajima, International Inc. ("Kajima"), its construction management contractor, and Kajima's contractors and consultants, conduct environmental and engineering investigations of the seawall and facilities on the Property.

B. For those reasons stated in the Agreement, the Port desires to provide Kajima access to the Property for those additional investigations as provided in the attached Entry Permit ("Exhibit D").

C. In consideration of the Port's agreement to provide Kajima access to the Property, the Giants agree to share in certain costs associated with Investigation and Remediation that may be required at the Property as set forth in the Agreement. The Giants and Port therefore agree to amend the Agreement to include Exhibit "D."

IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES, THE PORT AND GIANTS HEREBY AGREE AS FOLLOWS:

Section 2 of the Agreement, entitled "Permits to Enter," is amended with the addition of a new second paragraph on page 3 which reads:

> Simultaneous with entering into Amendment 1, the Port agrees to grant the Giants' construction management contractor, Kajima, a permit to enter the Property in connection with engineering and environmental investigations, which permit is attached hereto as Exhibit "D." Whenever in this Agreement the word "Permits" is used, it shall mean Exhibits "B," "C" and "D," and all obligations imposed by the Agreement with regard to Exhibits "B" and "C" are hereby extended to Exhibit "D."

All other terms and conditions of the Agreement remain the same.

"Giants"
China Basin Ballpark Company LLC, a Delaware Limited Liability Company

By: Laurence M Baer

"Port"
City and County of San Francisco, a municipal corporation, acting by and through the Port of San Francisco

By: _____
Dennis P. Bouey
Executive Director

Approved As to Form

Louise H. Renne
City Attorney

By: _____
Deputy City Attorney

G:\GIANTS\AMEND1.AGT

** TOTAL PAGE.003 **

PORT OF SAN FRANCISCO

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San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

September 3, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Consent to License Agreement Between the San Francisco Redevelopment Agency and Oriental Warehouse Associates for the Installation of a Forced Main Sewer Line Under Delancey Street Between Brannan Street and The Embarcadero

DIRECTOR'S RECOMMENDATION: APPROVE LICENSE AGREEMENT

I. BACKGROUND

The Port leases to the San Francisco Redevelopment Agency ("Agency") certain property known as Parcel S, pursuant to a lease dated September 22, 1988 (the "Agency Lease"), Parcel S includes a cul-de-sac and a pedestrian-only, landscaped portion of Delancey Street, located between Brannan Street and the Embarcadero. The Agency Lease expires on September 25, 2050.

Oriental Warehouse Associates ("OWA") owns certain parcels of land located in proximity to Parcel S. OWA is undertaking to: (i) renovate the building known as the Oriental Warehouse located for use as live/work loft condominiums and (ii) develop another adjacent property for use as two (2) residential/commercial towers (the "Towers Project").

THIS PRINT COVERS CALENDAR ITEM NO. 5C

The renovation of the Oriental Warehouse and the construction of the Towers Project will require creation and construction of a forced main sanitary sewer line, being approximately three (3) feet in width ("Forced Main Sewer) running from the Oriental Warehouse and the Towers Project through Parcel S, along Delancey Street to the existing thirty-six inch (36") main sanitary storm sewer and related facilities located at the Embarcadero (the "Existing Sewer"). Because Parcel S is currently under lease with the Agency, Oriental Warehouse has requested a License Agreement from the Agency for the installation and maintenance of the Forced Main Sewer. The Port is a party to the License Agreement for purposes of consent. A copy of the License Agreement is attached hereto and is on file with the Secretary of the Port Commission.

The License Agreement includes the following material provisions:

- The Agency grants OWA a license for access to the License Area to install and maintain the forced main sewer, at OWA's sole cost and expense

- Port consents to the License Agreement, upon the following terms and conditions:

  - If the Agency Lease expires prior to 2050, Port will recognize OWA's rights under the License Agreement, and OWA shall attorn to Port as if Port was the licensor under the License Agreement. Upon request by Port, OWA shall enter into a replacement agreement. The replacement license agreement will include (i) a reasonable license fee payable by OWA, (ii) Port's then-standard language (including insurance and indemnity requirements), and (iii) a provision whereby OWA agrees at its sole cost and expense to relocate the sewer line if detrimental to Port's activities and operation (as determined by Port).

  - After 2050, Port will recognize OWA's rights under the License Agreement on a month-to-month basis. Upon request of either party, Port and OWA will enter into a replacement license agreement for a term not to exceed 66 years. The replacement license agreement will include the same provisions stated in the immediately preceding paragraph.

- The Agency agrees not to materially interfere or adversely affect OWA's use of the forced main sewer; however, the Agency may use the license area for any use not inconsistent or materially interfering with the forced main sewer line

- OWA shall obtain a building permit from the Port for installation of the forced main sewer line

- The License Agreement may not be assigned except to the homeowners association created for the OWA condominium project, to a subsidiary of OWA, or to any entity taking title to the OWA property

- OWA shall provide a one-year guarantee bond for restoration of surface improvements and a two-year guarantee bond for subsurface improvements, both in the amount of $100,000.00

- OWA shall carry full insurance naming the Port as additional insured, and shall indemnify the Agency and Port for any claims arising out of OWA's use of the property.

Prepared by: Neil H. Sekhri, Assistant Port General Counsel

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-92

WHEREAS, Charter Section B3.581 empowers the Port Commission with power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, under Charter Section B3.581(g) licenses granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, The Port owns and leases to the San Francisco Redevelopment Agency ("Agency") certain property known as Parcel S, pursuant to a lease dated September 22, 1988 (the "Agency Lease"), located along Delancey Street, between Brannan Street and the Embarcadero ("License Area"); and

WHEREAS, Oriental Warehouse Associates, a California limited partnership is in the process of developing certain adjoining properties for condominium units, and requires the installation of a forced main sewer along the License Area; and

WHEREAS, Oriental Warehouse Associates has negotiated a License Agreement with the Agency and Port staff, to permit the construction, maintenance and repair of the forced main sewer line; and

WHEREAS, Port Commission approval is being sought to approve the License Agreement between the Port, the Agency, and Oriental Warehouse Associates, a California limited partnership, a copy of which is on file with the Secretary of the Port Commission, and the terms of which are set forth in the Memorandum of Agenda Item 5C for the Port Commission Meeting on September 10, 1996; now, therefore, be it

RESOLVED, that the Port Commission hereby approves the License Agreement between the Port, the Redevelopment Agency of the City and County of San Francisco, and Oriental Warehouse Associates, a copy of which is on file with the Secretary of the Port Commission, and that the Executive Director is hereby directed to execute the License Agreement in substantially the form thereof, as approved by the City Attorney; and be it further

RESOLVED, that the Executive Director is hereby authorized to enter into any subsequent license agreements directly between the Port and Oriental Warehouse Associates, its successors and assigns, for the installation and maintenance of the forced main sewer, subject to the terms of Section 8 of the License Agreement.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 10, 1996.

_____
Secretary

g:\wp61\nhs\owa.ins

Record and Return To:
Reuben & Cera
655 Montgomery Street, 16th Floor
San Francisco, CA 94111
Attention: Sheryl Reuben, Esq.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") made this _____ day of _____, 1996, between **THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO** ("Redevelopment"), **ORIENTAL WAREHOUSE ASSOCIATES,** a California limited partnership, and its successors and assigns ("OWA"), and as to Section 8 hereof, the San Francisco Port Commission ("Port"), an agency of the City and County of San Francisco.

W I T N E S S E T H :

WHEREAS, the Port has exclusive jurisdiction and control over those certain lands granted to the City and County of San Francisco pursuant to Chapter 1333, Statutes of 1968, as amended (the "Burton Act"); and

WHEREAS, pursuant to that certain lease dated September 22, 1988 (the "Lease"), the Port leased to Redevelopment a certain Parcel S controlled by the Port, as identified on Exhibit A attached hereto and made a part hereof (the "Port Property"), which Lease expires on September 25, 2050; and

WHEREAS, OWA is the owner in fee of certain plots or parcels

of land, being in the City and County of San Francisco, State of California, known as Lots 12, 20 and 25 in Assessor's Block 3789, more particularly bounded and described in Exhibits B-1 and B-2 attached hereto and made a part hereof (Lot 25 being hereinafter referred to as the "OW Property" and Lots 12 and 20 being hereinafter referred to as the "Towers Property"); and

WHEREAS, OWA is undertaking to: (i) renovate the building known as the Oriental Warehouse located on the OW Property for use as live/work loft condominiums ("Oriental Warehouse Project"); and (ii) develop the Towers Property for use as two (2) residential/commercial towers containing approximately eighteen (18) floors in each tower (the "Towers Project"); and

WHEREAS, the renovation of the Oriental Warehouse and the construction of the Towers Project will require creation and construction of a forced main sanitary sewer line, being approximately three (3) feet in width ("Forced Main Sewer") running from the Oriental Warehouse Project and the Towers Project to the existing thirty-six inch (36") main sanitary storm sewer and related facilities located at the Embarcadero (the "Existing Sewer"); and

WHEREAS, the parties hereto intend to create a license for access, ingress and egress, and the construction, installation, operation, maintenance, replacement and repair of the Forced Main Sewer in the location more particularly described in Exhibit C annexed hereto (the "Sewer License Area"); and

NOW, THEREFORE, in consideration of the mutual covenants set

forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. Grant of License. Redevelopment hereby grants to OWA, its lessees, invitees, successors, assigns and licensees, an exclusive license for access, ingress and egress in, upon, under and over the Sewer License Area for the sole purpose of constructing, installing, operating, maintaining, repairing and replacing the Forced Main Sewer with access ways from the surface wherever reasonably necessary, which shall run from the OW Property and the Towers Property, in, upon, under and over the Sewer License Area and which shall connect into the Existing Sewer, or any replacement or supplement thereto, for the benefit of the owners and occupants of the OW Property and the Towers Property, or portions thereof, and their respective guests, invitees, tenants, lessees, agents, contractors, subcontractors, employees, successors and assigns. The term of this License shall expire on the expiration or sooner termination of the Lease, subject to Section 8 hereof.

2. Costs and Expenses. All costs and expenses with respect to the construction, operation, maintenance, repair and replacement of all improvements relating to the Forced Main Sewer described herein and the Sewer License Area shall be paid by OWA.

3. Access. Redevelopment hereby covenants and agrees to allow OWA and its licensees, contractors, subcontractors, agents, representatives, successors and assigns, access from time to time

when necessary to enter upon the Port Property and to do such acts thereon as may be necessary in connection with the construction, operation, maintenance, repair and replacement of the Forced Main Sewer.

4. Use. (a) Redevelopment hereby agrees: (i) to keep the Sewer License Area free from all obstacles and obstructions and not to perform any act or construct any improvement on or within the Sewer License Area that would prevent, impede or impair OWA's use of the Forced Main Sewer; and (ii) that OWA shall have the exclusive right to use the Forced Main Sewer.

(b) Notwithstanding anything contained herein to the contrary, Redevelopment may make any improvements to the presently existing plaza area on the Sewer License Area so long as such improvements do not have a material, adverse impact on the Sewer License Area.

5. Permits. All necessary permits, authorizations, and approvals for the installation, construction, operation, maintenance, repair and replacement of the Forced Main Sewer and for the connection of the Forced Main Sewer with and into the Existing Sewer shall be obtained at the sole cost and expense of OWA. OWA acknowledges that construction and repair of the Forced Main Sewer will require a building permit from the Port.

6. Alterations. (a) Should OWA need to excavate or should it need to remove or alter any improvements within the Sewer License Area in order to install, maintain, or repair the Forced Main Sewer, OWA shall restore such area and/or improvements to as

near as is reasonably practicable, their original condition. OWA also agrees to provide a one-year guarantee bond for the restoration of Redevelopment's above-ground improvements in the amount of One Hundred Thousand Dollars ($100,000.00) and a two-year guarantee bond for subsurface improvements made by OWA in the amount of One Hundred Thousand Dollars ($100,000.00).

(b) Redevelopment shall have the right to review and approve any construction plans for the Forced Main Sewer subsequent to the initial construction of the Forced Main Sewer, only with respect to the scope and impact of construction on Redevelopment's improvements on the Sewer License Area. Redevelopment shall also have the right to review and approve the plan for restoration of Redevelopment's improvements on the Sewer License Area. OWA shall submit a construction plan at least thirty (30) days prior to commencing any construction subsequent to the initial construction of the Forced Main Sewer. Redevelopment will have thirty (30) days after receipt to review and either approve or reject the plan. Redevelopment shall not unreasonably withhold approval of the plan. If Redevelopment disapproves of the plan, it must state the reasons with specificity and suggest remedial action.

(c) Redevelopment may conduct inspections of the Sewer License Area during construction for the purpose of reviewing the impact of the construction of the Forced Main Sewer on Redevelopment's improvements and OWA's compliance with the Redevelopment-approved plan.

(d) OWA shall carry and pay for its own public liability

and personal injury insurance in an amount sufficient to insure against any liability or claim due to injury to the respective agents, employees, tenants, lessees, guests, and invitees of the Port, Redevelopment and OWA which may occur on or within the Sewer License Area. Insurance coverage shall meet the requirements set forth in Exhibit D attached hereto and made a part hereof. Furthermore, OWA shall require its construction contractor(s) to carry the same level of insurance coverage for the duration of any contract for construction in the Sewer License Area.

7. Taxes and Assessments. OWA agrees to pay to the proper authority any and all taxes, assessments and similar charges on the Sewer License Area in effect at the time this Agreement is entered into, or which become effective thereafter, including all taxes levied or assessed upon the possession, use, or occupancy, as distinguished from the ownership of the Sewer License Area. OWA, on behalf of itself and any permitted successors and assigns, recognizes and understands that this Agreement may create a possessory interest subject to property taxation and that OWA, and any permitted successor or assign may be subject to the payment of such taxes. OWA, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or extend this Agreement may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder, if any.

8. **Port Consent**.

(a) Port Consent. Port hereby consents to the foregoing Agreement, subject to the terms and conditions of this Section 8.

(b) Early Termination of Lease. In the event that the Lease shall terminate prior to its scheduled expiration on September 20, 2050, for any reason other than condemnation, then:

(1) OWA shall be bound to Port under all of the terms, covenants and conditions of this Agreement through September 20, 2050, with the same force and effect as if Port were the Licensor under the Agreement, and OWA hereby agrees to attorn to Port as the Licensor, and Port agrees to accept such attornment from OWA as Licensee, and be bound by all of the terms, covenants and conditions of this Agreement through September 20, 2050, such attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties to this Agreement, immediately upon Port succeeding to the interest of Redevelopment under this Agreement.

(2) Notwithstanding subsection 8(b)(1) above, Port may at any time during the remaining Lease term request OWA to enter into a replacement License Agreement directly between Port and OWA, having a term of no more than the original term of the Lease, upon substantially the same terms and conditions as this Agreement, which new agreement shall include the following additional provisions:

(i) Port may charge a reasonable annual license fee to be determined by Port based upon the use of the property and the

length of the license term.

(ii) Any and all rights expressly or impliedly granted to OWA under the license shall be subject and subordinate to the continuing right of Port to use any and all parts of the Sewer License Area, including the granting of additional licenses, in any manner not inconsistent and not materially or adversely interfering with OWA's use of the Sewer License Area.

(iii) The replacement License Agreement shall include language substantially in the form of the following, regarding relocation and removal of the Forced Main Sewer:

> i. Port shall reserve the right to occupy the Sewer License Area, or any part thereof, which is occupied or to be occupied by the Forced Main Sewer, in the event that the existence of the Forced Main Sewer is or will be detrimental to the exercise of Port's operations and activities, whether governmental or proprietary, as determined by the Port's Executive Director ("Director") in his sole discretion, including, without limitation, Port's construction projects and other public projects. OWA shall at its own cost and expense temporarily or permanently remove, relocate, adjust, and/or support the Forced Main Sewer, or any part thereof, to such other location or locations, or in such

manner, as appropriate, as may be designated or approved, in writing and in advance, by Port. Port will not unreasonably designate or withhold approval of any plan for removal, relocation, adjustment and/or support of the Forced Main Sewer; such relocation shall be to a location most convenient and feasible for the OW Project and the Towers Project, provided such relocation shall not materially interfere with Port's activities and operations. Such removal, relocation, adjustment and/or support shall be completed within the time reasonably prescribed by the Director. If the Forced Main Sewer is not removed, relocated, adjusted and/or supported as prescribed by the Director and within the prescribed time, Port may take all reasonable, necessary, and appropriate action, including removing the Forced Main Sewer, and shall charge the reasonable costs actually incurred, including but not limited to administrative costs, to OWA.

ii. In the event that the Forced Main Sewer or any part thereof, are abandoned or no longer placed in service, OWA promptly shall

notify Port, giving in detail the location of the Forced Main Sewer so abandoned. At Port's sole option, OWA shall convey such Forced Main Sewer to Port or the City of San Francisco ("City") at no cost or promptly remove the Forced Main Sewer, all at OWA's sole cost and expense. If OWA shall fail to remove the Forced Main Sewer and restore Port property as required by Port, Port shall be entitled to remove the Forced Main Sewer and restore Port property on behalf of OWA and charge the reasonable costs actually incurred, including but not limited to administrative costs, to OWA. In the event of OWA's abandonment of the Forced Main Sewer, upon Port's demand, OWA shall execute such documents of title as will convey all right, title, and interest in the Forced Main Sewer, or any part thereof, to Port free and clear of liens.

iii. Whenever the removal or relocation of the Forced Main Sewer is required under this Agreement, OWA after the removal or relocation of the Forced Main Sewer, at its own cost and expense, promptly shall repair, restore and return the Port property in which the Forced

Main Sewer was located, to a safe and satisfactory condition, as approved by the Director in accordance with Port and City laws and standard requirements. If OWA does not return the affected site to a safe and satisfactory condition, Port shall have the option to perform or cause to be performed such reasonable and necessary work on behalf of OWA and charge the actual costs incurred, including but not limited to administrative costs, to OWA. Upon the receipt of a demand for payment by Port, OWA shall reimburse Port for such costs.

(iv) Port shall require such standard additional license provisions as are standard Port practice at the time of such new agreement, including without limitation, additional insurance requirements and indemnity provisions.

(3) In the event Port fails to receive a new agreement in conformance with Section 8(b) hereof, duly executed by OWA, or its successors or assigns, within thirty (30) days of request by Port, this Agreement shall thereupon immediately terminate and OWA shall remove its Forced Main Sewer from the property, in accordance with the terms of subsection 8.b.(2)(iii).iii above.

(c) Timely Expiration of Lease. In the event that the Lease expires on the original expiration date of September 20, 2050, this Agreement shall continue thereafter on a month-to-month basis

terminable by either party, except that OWA shall be bound to Port under all of the terms, covenants and conditions of this Agreement with the same force and effect as if Port were the Licensor under the Agreement, and OWA hereby agrees to attorn to Port as the Licensor, and Port agrees to accept such attornment from OWA as Licensee, such attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties to this Agreement, immediately upon Port succeeding to the interest of Redevelopment under this Agreement. At any time within one hundred eighty (180) days prior to the expiration of the Lease, and at any time thereafter while the Agreement is in effect, either party may request in writing to the other, that upon expiration of the Lease, the parties enter into a new agreement having a term of no more than sixty-six (66) years, and substantially in accordance with all of the other terms and conditions hereof (other than length of term). Within forty-five (45) days of such request, Port shall prepare and deliver to OWA execution copies of such new agreement. In the event Port fails to receive a new agreement in conformance with Section 8(b) hereof, duly executed by OWA, or its successors or assigns, within thirty (30) days of request by Port, this Agreement shall thereupon immediately terminate and OWA shall remove its Forced Main Sewer from the property, in accordance with the terms of subsection 8.b.(2)(iii).iii above. Upon or prior to the expiration of the aforementioned sixty-six (66) year term, Port and OWA shall use reasonable good faith efforts to negotiate a new agreement on

substantially the same terms and conditions set forth herein.

9. No Grant of Real Property Interest. Nothing in this Agreement nor any use hereunder, shall be deemed to grant, convey, create, or vest in OWA a real property interest in any portion of the Port's property or the Sewer License Area, including but not limited to any fee or leasehold interest in land, or an easement, or any franchise rights, except that nothing herein shall affect any possible liability for possessory interest taxes pursuant to Section 7 hereof.

10. Emergency Response Plan. Prior to conducting any work in the Public Right-of-Way, OWA shall provide to Port and Redevelopment a current emergency response plan identifying staff who have authority to resolve, twenty-four (24) hours a day, seven (7) days a week, problems or complaints resulting from the sewer facilities installed pursuant to this Agreement.

11. Indemnity. (a) OWA shall defend, hold harmless and indemnify Redevelopment, the Port, the City and County of San Francisco and their respective members, officers, agents and employees of and from any and all claims, demands, losses, costs, expenses, obligations, damages, injuries, actions, causes of action and liabilities of every kind, nature and description directly or indirectly, arising out of or connected with any of OWA's operations or activities related to this Agreement, excluding the willful misconduct or gross negligence of the person or entity seeking to be defended, indemnified or held harmless.

b. For purposes of this section, OWA's operations and

activities include, but are not limited to, those of its contractors, agents and employees.

12. Assignment. The parties hereto further agree that OWA (or its successors and/or assigns) shall not have the right to assign this Agreement and/or any and all of the benefits, duties and obligations of OWA set forth herein to any person or entity except the following: (i) the homeowners association to be formed to govern and administer the affairs of the owners of condominium units in the Oriental Warehouse Project and/or the Towers Project; (ii) any parent, subsidiary, partner, or affiliated entity or person of OWA or Reliance Insurance Company; or (iii) any individual, corporation, partnership or other entity taking title to or leasing all or any portion of the OWA Property, the OW Property and/or the Towers Property.

13. Governing Laws. This Agreement shall be construed and enforced in accordance with the laws of the State of California and the City Charter.

14. Invalidity. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held void, unenforceable or invalid, then the remainder of this Agreement or the application of such provisions to persons or circumstances other than those as to which it is held void, unenforceable or invalid, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

15. Amendments. This Agreement may not be amended, altered

or changed unless in a writing, in recordable form, signed by the parties hereto.

16. Subordination. Redevelopment hereby consents to the execution, terms and conditions of this Agreement and hereby subordinates its leasehold interest in the Port Property to the terms and conditions set forth herein.

17. Attorneys' Fees. If any party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of Port and Redevelopment shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience.

18. Conflict. To the extent the provisions of this Agreement and any other permit required to be obtained by OWA from Port are in conflict, the provisions which impose the higher or greater legal duty or obligation upon OWA shall take precedence.

19. Notices. All notices which shall or may be given pursuant to this Agreement shall be in writing and transmitted through the United States mail, by means of private delivery systems, or by facsimile transmission, if a hard copy of the same is followed by delivery through the United States mail or by private delivery systems, as follows:

Port

Port of San Francisco
Director, Tenant and Maritime Services
Ferry Building, Room 3100
San Francisco, CA 94111

Copy: Office of the City Attorney
Port of San Francisco
Ferry Building, Room 3100
San Francisco, CA 94111

Redevelopment: Executive Director
The Redevelopment Agency of San Francisco
770 Golden Gate Avenue
San Francisco, CA 94102

OWA: Reliance Development Group
55 East 52nd Street
New York, NY 10055
Attn: General Counsel

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

THE SAN FRANCISCO PORT COMMISSION

By:_____
Name: Dennis P. Bouey
Title: Executive Director
Port Commission Resolution No. ___

APPROVED AS TO FORM:

_____
Name:
Title:

REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

By:_____
Name:
Title:

APPROVED AS TO FORM:

_____

Name:
Title:

ORIENTAL WAREHOUSE ASSOCIATES, a California limited partnership

By: Reliance Oriental Warehouse Associates, a California limited partnership, General Partner

By: Reliance Oriental Warehouse, Inc. a Delaware corporation, General Partner

By: _____
D. Michael Gray
Vice President

9-3-96

ACKNOWLEDGMENT

State of California)
)
County of San Francisco)

On Sept. 3, 1996 before me, JANET R. MURPHY, the undersigned Notary Public, personally appeared DAVID MICHAEL GRAY

___ personally known to me -OR- X proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

MGC1 Janet R. Murphy Comm. #1032036 NOTARY PUBLIC CALIFORNIA City & County of San Francisco Comm. Expires July 13, 1998 MGC1

WITNESS my hand and official seal.

Janet R. Murphy
Notary's Signature

State of California)
)
County of)

On _____, 19__, before me, _____, the undersigned Notary Public, personally appeared _____

___ personally known to me -OR- ___ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary's Signature

State of California)
)
County of)

On _____, 19__, before me, _____, the undersigned Notary Public, personally appeared _____

____ personally known to me -OR- ____ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary's Signature

EXHIBIT A

PORT PROPERTY

F995120

EXHIBIT B-1

LEGAL DESCRIPTION, OWA PROPERTY

LOT 25, as said lot is shown on that certain Parcel Map entitled, "Parcel Map, Being a Resubdivision of Lots 1A, 15, 21 and 24, Portion of Assessor's Block No. 3789, San Francisco, California", which map was filed for record in the Office of the Recorder of the City and County of San Francisco, State of California, on October 16, 1985, in Book 31 of Parcel Maps, Pages 95 and 96.

EXCEPTING THEREFROM that portion lying below a depth of 500 feet, measured vertically, from the contour of the surface of said property; however, Grantor or its successors and assigns shall not have the right for any purpose whatsoever to enter upon, into or through the surface of said property or any part thereof lying between said surface and 500 feet below said surface, as reserved by Southern Pacific Transportation Company, a Delaware corporation, in Deed recorded December 31, 1980, in Book D110, Page 989, Official Records.

Assessor's Lot 25, Block 3789.

F995120

EXHIBIT B-2

The following described property in the city and county of San Francisco, state of California:

Beginning at a point on the southeasterly line of Brannan Street, distant thereon North 45 degrees 08' East, 223.92 feet from the northeasterly line of Colin P. Kelly, Jr. Street (formerly Japan Street); running thence at a right angle South 44 degrees 51' 51" East 100 feet; thence at a right angle North 45 degrees 08' 09" East 306.08 feet, more or less, to the southwesterly line of First Street; thence at a right angle along said line of First Street northwesterly 100 feet to the southeasterly line of Brannan Street; thence along the last named line South 45 degrees 08' 09" West 306.08 feet, more or less, to the point of beginning.

Being a portion of 100 Vara Block No. 352.

lot 12

Block 3789

F995120

EXHIBIT B-2

PARCEL ONE:

Beginning at a point on the southwesterly line of Brannan Street, distant thereon North 45 degrees 08' 09" East 14.16 feet from the northeasterly line of Colin P. Kelly, Jr. Street, (formerly Japan Street); thence North 45 degrees 08' 09" East along said southeasterly line of Brannan Street 209.76 feet; thence South 44 degrees 51' 51" East 240 feet; thence South 45 degrees 08' 09" West 209 feet, more, or less, to a line drawn South 44 degrees 47' 02" East from the point of beginning; thence North 44 degrees 47' 02" West along said line so drawn 240 feet, more or less, to the point of beginning.

BEING a portion of 100 Vera Block No. 352.

PARCEL TWO:

A subsurface right, appurtenant to Parcel 1 above, not to exceed 1 foot in width, to maintain foundations of structures along portion of the Northerly and Southerly exterior boundaries of the land described in Parcel One, as granted to Pacific Vegetable Oil Corporation, a corporation, by Deed recorded September 4, 1936, in Book 3008, Page 183, Official Records, in the office of the Recorder of the City and County of San Francisco, state of California.

Assessor's Parcel No.: Lot 20, Block 3789

AUGUST 22, 1996
JOB NO. 40085-10
LEGAL.1

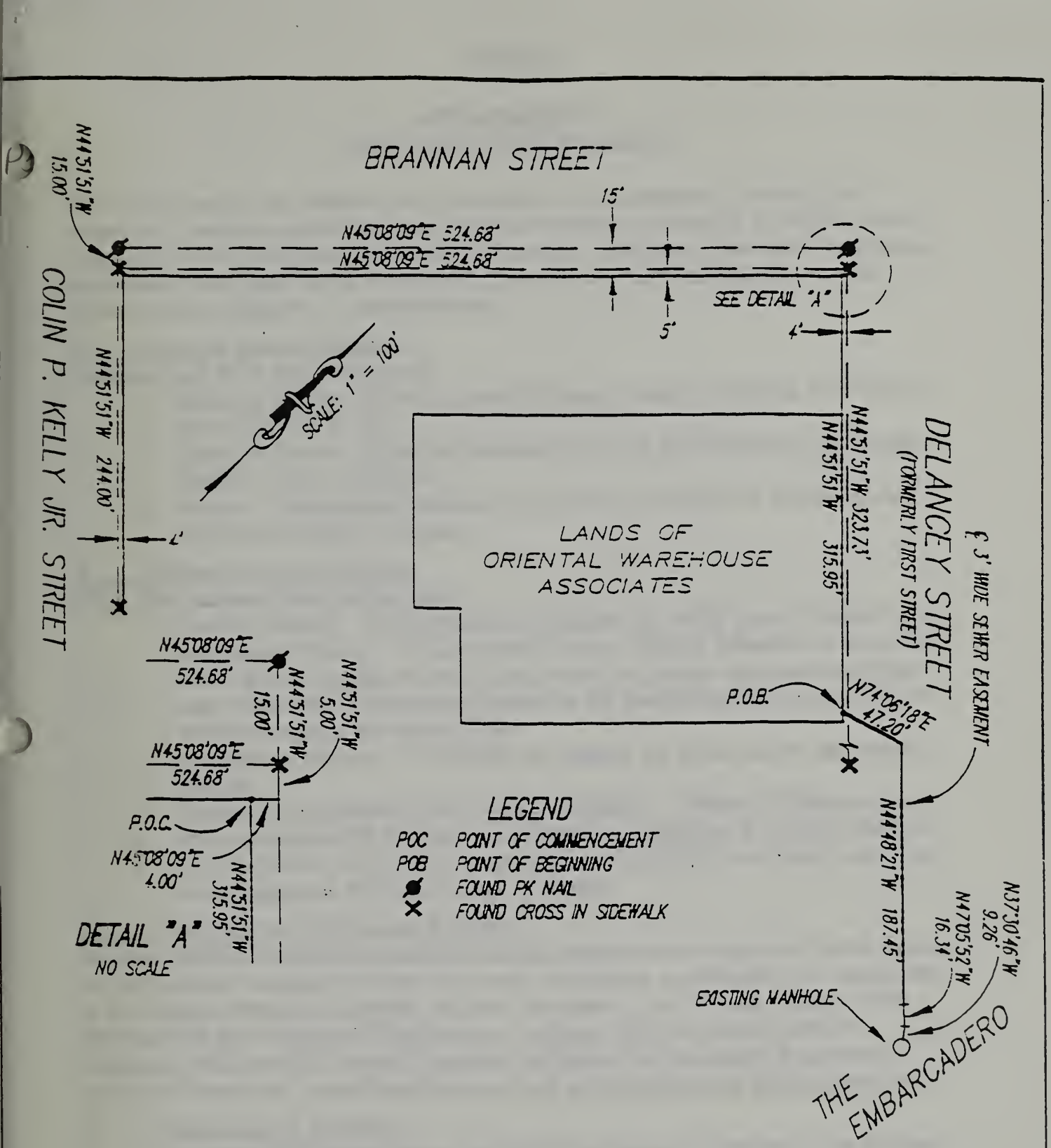
EXHIBIT C

FORCED MAIN SEWER LICENSE
LEGAL DESCRIPTION

A STRIP LAND THE UNIFORM WIDTH OF 3.00 FEET, THE CENTERLINE OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT MARKING THE INTERSECTION OF THE SOUTHEASTERN RIGHT OF WAY LINE OF BRANNAN STREET WITH THE SOUTHWESTERN RIGHT OF WAY LINE OF DELANCEY STREET (FORMERLY KNOWN AS FIRST STREET) AND RUNNING THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERN RIGHT OF WAY LINE OF DELANCEY STREET SOUTH 44°51'51" EAST 315.95 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE; THENCE, LEAVING SAID SOUTHWESTERN RIGHT OF WAY LINE NORTH 74°06'18" EAST 47.20 FEET; THENCE, SOUTH 44°48'21" EAST 187.45 FEET; THENCE, SOUTH 47°05'52" EAST 16.34 FEET; THENCE, SOUTH 37°30'46" EAST 9.26 FEET TO AN EXISTING SEWER MANHOLE AND THE POINT OF TERMINATION OF THE HEREIN DESCRIBED CENTERLINE.

END OF DESCRIPTION



PLAT TO ACCOMPANY LEGAL DESCRIPTION

3' WIDE FORCED MAIN SEWER LICENSE

CITY OF SAN FRANCISCO – SAN FRANCISCO COUNTY – CALIFORNIA

Prepared By

Luk, Milani & Associates

Civil Engineers – Land Planners – Land Surveyors

1465 Enea Circle #788

Concord, California 94520

JUNE 1996 SCALE: 1" = 100'

ATTACHMENT I
INSURANCE REQUIREMENTS

OWA shall procure and maintain for the duration of this Agreement, including any extensions, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the construction, installation, operation, maintenance, replacement, and repair of the Forced Main Sewer by OWA, its contractors, agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01 11 88).
2. Insurance Services Office form number CA 00 01 06 92 covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employers Liability Insurance.

B. Minimum Limits of Insurance

OWA shall maintain limits no less than:

1. General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: $1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of $1,000,000 for bodily injury by accident and $1,000,000 per person and in the annual aggregate for bodily injury by disease.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Agency. At the option of the Agency, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Port, the Agency, the City and County of San Francisco and their respective Commissioners, officers, agents and employees; or Contractor shall provide a financial guarantee satisfactory to the Agency guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

1. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
   a. The Port, the Agency, the City and County of San Francisco and their respective officers, agents, employees and Commissioners are to be covered as insureds as respects: liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of OWA, its agents, employees or

officers; and liability arising out of work or operations performed by or on behalf of OWA.

b. For any claims related to the Sewer License Area, OWA's insurance coverage shall be primary insurance as respects the Port, the Agency, the City and County of San Francisco and their respective Commissioners, officers, agents, and employees. Any insurance or self-insurance maintained by the Port, the Agency, the City and County of San Francisco and their respective Commissioners, officers, agents or employees shall be excess of OWA's insurance and shall not contribute with it.

2. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Port, the Agency, the City and County of San Francisco and their respective Commissioners, officers, agents or employees.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.

4. For Workers' Compensation and Employers Liability Coverage, the insurer shall agree to waive all rights of subrogation against the Port, the Agency, the City and County of San Francisco and their respective members, officers, agents and employees for losses arising from work performed by or for OWA.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a current A. M. Best's rating of no less than A:VII.

F. Verification of Coverage

OWA shall furnish the Agency with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that Insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by the Agency. All certificates and endorsement are to be received and approved by the Agency before work commences. The Agency reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

G. Contractors and Subcontractors

OWA shall require its contractors to include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for contractors and subcontractors shall be subject to all the requirements stated herein.

PORT OF SAN FRANCISCO

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MEMORANDUM

September 4, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Construction Contract No. 2616, "Pier 35 Passenger Terminal Elevator / Escalator Design/Build," authorization to award.

DIRECTOR'S RECOMMENDATION: AUTHORIZE STAFF TO AWARD CONTRACT NO. 2616, "PIER 35, ESCALATOR/ELEVATOR DESIGN/BUILD," TO CICO- R&W, A JOINT VENTURE FOR $1,090,426.

On May 14, 1996, the Commission authorized staff to solicit bids for Contract No. 2616, "Pier 35 Passenger Terminal Elevator/Escalator Design/Build" contract. This project must be completed by April 25, 1997, the start of next year's cruise ship season.

The project scope of work consists of the following passenger path-of-travel and other enhancements to the Pier 35 Cruise Terminal:

1. Installation of two new escalators;

2. Installation of a new passenger elevator;

3. Installation of modifications and additions to the existing fire suppression systems;

4. Installation of modifications and additions to the existing power, and general and emergency lighting systems; and

THIS PRINT COVERS CALENDAR ITEM NO. **6A**

5. Installation of architectural finishes, new exit stairs, doors and windows along the passenger path-of-travel.

Bids were received on August 22, 1996 and the Summary of Bids is attached. The low bidder is CICO-R&W, a Joint Venture, at a cost of $1,090,426. All documents are in order.

The Human Rights Commission has reviewed the documents and determined that all MBE/WBE goals have been met as stated in the contract documents.

Staff recommends that the Commission authorize staff to award Construction Contract No. 2616 "Pier 35 Passenger Terminal Elevator/Escalator Design/Build," to CICO-R&W, a Joint Venture, at a cost of $1,090,426; authorize a 10% contingency for possible Type 1 contract modifications; and authorize the Executive Director to accept the work once it is complete.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-93

WHEREAS, on May 14, 1996, the Commission authorized staff to advertise for bids on Contract No. 2616, "Pier 35 Passenger Terminal Elevator/Escalator Design/Build" contract; and

WHEREAS, the work consists of furnishing all labor, equipment and materials, and performing all the incidental work necessary to prepare final construction documents and construct the Pier 35 Passenger Terminal Elevator/Escalator Project; and

WHEREAS, staff has reviewed the bid documents and determined that everything is in order; and

WHEREAS, the Human Rights Commission has reviewed the bid documents and determined that all MBE/WBE goals have been met as stated in the contract documents; and

WHEREAS, the project will be funded by the Port; now, therefore be it

RESOLVED, that the San Francisco Port Commission hereby authorizes staff to award Construction Contract No. 2616 "Pier 35 Passenger Terminal Elevator/Escalator Design/Build," to CICO-R&W, a Joint Venture, at a cost of $1,090,426; authorize a 10% contingency for possible Type 1 contract modifications; and authorize the Executive Director to accept the work once it is complete.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 10, 1996

_____
Secretary

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BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: LI ZHAN
Checked By: KEVIN JENSEN
Date: Sept. 4, 1996

Project: PIER 35 PASSENGER TERMINAL ESCALATOR/ELEVATOR DESIGN/BUILD
Contract No.: 2616
Project Manager: KEVIN JENSEN
Bids Opened: August 22, 1996 @ 2:00 p.m.

			CICO-R&W, J.V. 99 THE EMBARCADERO SAN FRANCISCO, CA 94105 (415) 397-1336		LTM CONSTRUCTION CO., INC. 1218 MICHIGAN STREET SAN FRANCISCO, CA 94107 (415) 282-0115		CUEVAS & MANNION CONSTRUCTION 1641 HAWES STREET SAN FRANCISCO, CA 94124 (415) 822-3622	
Bid Item #	**Description**	**Estimated Quantity**	**Unit /LS Price**	**Total**	**Unit /LS Price**	**Total**	**Unit /LS Price**	**Total**
1	ALL NEW STRUCTURAL FRAMING WORK INCLUDING NEW STEEL BEAMS, COLUMNS, AND CONNECTIONS; WOOD STAIRWAY; SECOND FLOOR FRAMING ASSEMBLY, INCLUDING DECKING, BLOCKING, JOIST, AND SILLS; BUT EXCLUDING STRUCTURAL WORK ASSOCIATED WITH THE ELEVATOR AND ESCALATOR FIRST FLOOR PITS.	L.S.	$65,000.00	$65,000.00	$410,000.00	$410,000.00	not itemized	not itemized
2	HYDRAULIC PASSENGER ELEVATOR	L.S.	$50,000.00	$50,000.00	$50,000.00	$50,000.00	not itemized	not itemized
3	ESCALATORS	L.S.	$200,000.00	$200,000.00	$270,000.00	$270,000.00	not itemized	not itemized
4	PLUMBING WORK RELATED TO SUMP PUMPS AND FOR OFFSETTING OF ROOF DRAINS	L.S.	$15,000.00	$15,000.00	$8,000.00	$8,000.00	not itemized	not itemized
5	NEW SPRINKLERS FIRE EXTINGUISHERS, AND FIRE HOSE CABINETS	L.S.	$15,800.00	$15,800.00	blank	blank	not itemized	not itemized
6	ELECTRICAL WORK RELATED TO LIGHTING, POWER, TELEPHONE, LIFE SAFETY, AND CONTROLS	L.S.	$142,500.00	$142,500.00	$105,000.00	$105,000.00	not itemized	not itemized
7	ARCHITECTURAL & ENGINEERING SERVICES; CONSTRUCTION DRAWINGS AND SPECIFICATIONS; CONSTRUCTION COST ESTIMATES; AND CONSTRUCTION ADMINISTRATION	L.S.	$100,000.00	$100,000.00	$70,000.00	$70,000.00	not itemized	not itemized
8	DEMOLITION WORK	L.S.	$25,000.00	$25,000.00	$35,000.00	$35,000.00	not itemized	not itemized
9	SANDBLASTING OF ROOF DECK, ROOF STRUCTURE, WOOD TRUSSES, AND UPPER PORTION OF COLUMNS	L.S.	$135,000.00	$135,000.00	$120,000.00	$120,000.00	not itemized	not itemized
10	DEMOLITION OF FIRST FLOOR CONCRETE FOR ESCALATOR AND ELEVATOR PITS, INCLUDING ANY REQUIRED SHORING; CONSTRUCTION OF REINFORCED CONCRETE PITS FOR ESCALATORS AND ELEVATOR, INCLUDING ELEVATOR PIT LADDER; AND APPLICATION OF CEMENTITIOUS WATERPROOFING TO INSIDE AND OUTSIDE WALLS OF ESCALATORS AND ELEVATOR PITS	L.S.	$109,950.00	$109,950.00	$20,000.00	$20,000.00	not itemized	not itemized
11	TESTING AND INSPECTION	L.S.	$8,500.00	$8,500.00	$10,000.00	$10,000.00	not itemized	not itemized
	Total ALL LUMP SUM BID ITEMS 1 THROUGH 11			$866,750.00		$1,083,000.00 see note 1		NA

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Note 1: this bidders lump sum total indicated is $15,000 less than actual total of all lump sum prices provided. Correct total is $ 1,098,000.00.

BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: LI ZHA
Checked By: KEVIN JENSEN
Date: Sept. 4, 1996

Project: PIER 35 PASSENGER TERMINAL ESCALATOR/ELEVATOR DESIGN/BUILD
Contract No.: 2616 Project Manager: KEVIN JENSEN Bids Opened: August 22, 1996 @ 2:00 p.m.

		CICO-R&W, J.V. 99 THE EMBARCADERO SAN FRANCISCO, CA 94105 (415) 397-1336		LTM CONSTRUCTION CO., INC. 1218 MICHIGAN STREET SAN FRANCISCO, CA 94107 (415) 282-0115		CUEVAS & MANNION CONSTRUCTION 1641 HAWES STREET SAN FRANCISCO, CA 94124 (415) 822-3622		Bidder Name Address City, State, Zip Phone #		Bidder Name Address City, State, Zip Phone #	
Required Forms	Document #	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)
Bid	00300	Y		Y		Y					
Addenda Acknowledgment	00300	Y		Y		Y					
Schedule of Bid Prices	00302	Y		Y		Y					
Schedule of Unit Prices	00304	Y		Y		Y					
Bid Bond	00411	Y		Y		Y					
Experience & Financial Qualification	00420	Y		Y		Y					
List of Subcontractors	00430	Y		Y		Y					
Non-Collusion Certification	00481	Y		Y		Y					
HRC Form 1		Y		Y		Y					
HRC Schedule A (as applic, by 5pm)											
HRC Schedule L (as applic, by 5pm)											
HRC Form 2A		Y		Y		Y					
HRC Form 2B		Y		Y		Y					
Apprenticeship Program	00490	Y		Y		Y					
Business Tax Reg Declaration	00491	Y		Y		Y					
Highest General Prevailing Wage	00492	Y		Y		Y					
Equal Opp Empl & Bus Practices: L	00493	Y		Y		Y					
MacBride Principles	00494	Y		Y		Y					
Deemed Responsive by Engin & HRC (Y/N) ?		Y		Y		N					
Total Bid ►		$1,090,427.00		$1,289,175.00		$1,434,000.00					
PREFERENCES (as applicable):											
MBE	10%	($)		$128,917.50		N/A					
WBE	10%	($)									
LBE	5%	($)									
JV	5%	($)									
JV	7.5%	($)									
JV	10%	$109,042.70									
Adjusted Bid ►		$981,384.30		$1,160,257.50		N/A					

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BID SUMMARY
PORT OF SAN FRANCISCO

Prepared By: LI ZHANG
Checked By: KEVIN JENSEN
Date: Sept. 4, 1996

Project: PIER 35 PASSENGER TERMINAL ESCALATOR/ELEVATOR DESIGN/BUILD
Contract No.: 2616
Project Manager: KEVIN JENSEN
Bids Opened: August 22, 1996 @ 2:00 p.m.

			CICO-R&W, J.V. 99 THE EMBARCADERO SAN FRANCISCO, CA 94105 (415) 397-1336		LTM CONSTRUCTION CO., INC. 1218 MICHIGAN STREET SAN FRANCISCO, CA 94107 (415) 282-0115		CUEVAS & MANNION CONSTRUCTION 1641 HAWES STREET SAN FRANCISCO, CA 94124 (415) 822-3622	
UNIT PRICE Item #	Description	Estimated Quantity	Unit /LS Price	Total	Unit /LS Price	Total	Unit /LS Price	Total
1	NEW CONCRETE TOPPING SLAB, SQ. FT.	2,500	$7.70	$19,250.00	$2.00	$5,000.00	not itemized	not itemized
2	REPAIRS TO EXISTING FIRST FLOOR CONCRETE PILES SUPPORTING NEW PITS, EA.	10	$1,650.00	$16,500.00	$1,000.00	$10,000.00	not itemized	not itemized
3	STEEL PIPE WALL HANDRAIL, LIN. FT.	57	$28.60	$1,630.00	$25.00	$1,425.00	not itemized	not itemized
4	STEEL PIPE HANDRAIL, LIN. FT.	50	$23.10	$1,155.00	$25.00	$1,250.00	not itemized	not itemized
5	STEEL PIPE GUARDRAIL WITH HANDRAIL, LIN. FT.	50	$90.20	$4,510.00	$20.00	$1,250.00	not itemized	not itemized
6	3/4" UNDERLAYMENT GRADE SUBFLOOR WOOD JOISTS, & BLOCKING, SQ. FT.	1,600	$14.85	$23,760.00	$20.00	$32,000.00	not itemized	not itemized
7	2 X HARDWOOD TOP CAP RAILS, AT GUARDRAIL WALLS WITH TRANSPARENT FINISH, LIN. FT.	140	$16.50	$2,310.00	$25.00	$3,500.00	not itemized	not itemized
8	8'H 3/4" MDF WAINSCOTING, SQ. FT.	1,200	$11.00	$13,200.00	$3.00	$3,600.00	not itemized	not itemized
9	FLASHING AND SHEET METAL AT DOORS, AND WINDOWS, LIN. FT.	90	$27.50	$2,475.00	$15.00	$1,350.00	not itemized	not itemized
10	NEW 3' X 7' H.M. DOORS AND H.M. FRAMES WITH NEW LEVER HARDWARE ASSEMBLIES, EA	4	$1,650.00	$6,600.00	$1,000.00	$4,000.00	not itemized	not itemized
11	NEW 6' X 7' PAIR DOORS AND FRAMES WITH LEVER HARDWARE ASSEMBLIES, EA	2	$3,300.00	$6,600.00	$1,500.00	$3,000.00	not itemized	not itemized
12	NEW 6' X 7' PAIR DOORS AND FRAMES WITH PANIC HARDWARE ASSEMBLIES, EA	1	$3,630.00	$3,630.00	$1,800.00	$1,800.00	not itemized	not itemized
13	ALUMINUM SERVICE STATION DOOR WITH GLAZING, EA.	1	$7,150.00	$7,150.00	$8,000.00	$8,000.00	not itemized	not itemized
14	ALUMINUM STOREFRONT WITH GLAZING, SQ. FT.	400	$13.20	$5,280.00	$25.00	$10,000.00	not itemized	not itemized
15	4' X 10' REPLACEMENT EXTERIOR WINDOWS, EA.	2	$3,850.00	$7,700.00	$800.00	$1,600.00	not itemized	not itemized
16	WALL TYPE "A" GYPSUM BOARD SYSTEM, SQ. FT.	950	$4.07	$3,867.00	$6.00	$5,700.00	not itemized	not itemized
17	WALL TYPE "B" GYPSUM BOARD SYSTEM, SQ. FT.	550	$5.72	$3,146.00	$7.00	$3,850.00	not itemized	not itemized
18	WALL TYPE "C" GYPSUM BOARD SYSTEM, SQ. FT.	450	$5.72	$2,574.00	$5.00	$2,250.00	not itemized	not itemized
19	WALL TYPE "D" GYPSUM BOARD SYSTEM, SQ. FT.	1,200	$7.15	$8,580.00	$10.00	$12,000.00	not itemized	not itemized
20	WALL TYPE "F" GYPSUM BOARD SYSTEM, SQ. FT.	750	$3.85	$2,888.00	$4.00	$3,000.00	not itemized	not itemized
21	WALL TYPE "G" GYPSUM BOARD SYSTEM, SQ. FT.	1,900	$9.57	$18,183.00	$8.00	$15,200.00	not itemized	not itemized
22	WALL TYPE "H" GYPSUM BOARD SYSTEM, SQ. FT.	100	$10.45	$1,045.00	$15.00	$1,500.00	not itemized	not itemized
23	WALL TYPE "J" GYPSUM BOARD SYSTEM, EXCLUDING HARDWOOD TOP CAP RAIL, SQ. FT.	750	$6.82	$5,115.00	$6.00	$4,500.00	not itemized	not itemized
24	SUSPENDED LAY-IN ACOUSTICAL TILE CEILINGS, SQ. FT.	900	$2.75	$2,475.00	$4.00	$3,600.00	not itemized	not itemized
25	RESILIENT FLOOR TILE, BASE, TREADS & RISERS, SQ. FT.	4,000	$3.85	$15,400.00	$2.00	$8,000.00	not itemized	not itemized
26	PAINT WALLS, CEILINGS, EXPOSED STRUCTURE, RAILINGS, DOORS AND FRAMES, EXCLUDING TRANSPARENT FINISHES, SQ. FT.	20,000	$1.49	$29,700.00	$1.00	$20,000.00	not itemized	not itemized
27	CARPET, SQ. FT.	4,400	$2.04	$8,954.00	$2.00	$8,800.00	not itemized	not itemized
	TOTAL ALL UNIT PRICE ITEMS 1 THROUGH 27			$223,677.00		$176,175.00		NA
	GRAND TOTAL ALL BID ITEMS AND UNIT PRICE ITEMS			$1,090,427.00		$1,259,175.00		$1,434,000.00

PORT OF SAN FRANCISCO

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MEMORANDUM

September 4, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Professional Services Contract No. SA 3920019, "Asbestos Abatement Oversight and Consultation Services," with Galson Corporation, approval to authorize the execution of Phase 4 of the original contract for the consulting services relating to asbestos abatement on the Pier 48 earthquake repair project.

DIRECTOR'S RECOMMENDATION: AUTHORIZE STAFF TO INITIATE PHASE 4 OF CONTRACT NO. 3920019 WITH GALSON CORPORATION FOR $13,915.

On May 27, 1992, the Commission approved the award of the professional services contract for asbestos abatement consulting services to Galson Corporation. The contract scope was divided into four (4) phases of services for the Ferry Building/World Trade Center, Pier 70 Building 111, and for "as needed" Port facilities. Only Phase 1 for $98,500 was executed at the time of award because funds for the other phases were not then available. Descriptions of these phases are as follows:

PHASE 1: Prepare specifications and oversee the asbestos abatement work required by the repair of earthquake damage to the Ferry Building/World Trade Center.

PHASE 2: Prepare specifications and oversee the asbestos abatement work required by the repair of earthquake damage to Building 111, Pier 70.

On August 9, 1994, the Commission approved the execution of Phase 2 work for the consultant to perform asbestos abatement services for the Pier 70, Building 111, Earthquake Repair and Mitigation Project, for $35,810.

THIS PRINT COVERS CALENDAR ITEM NO. **6B**

PHASE 3: Prepare specifications and provide abatement oversight services for asbestos abatement work at the Ferry Building/World Trade Center.

On November 21, 1994, the Commission approved the execution of a portion of the Phase 3 work for the consultant to assess the asbestos conditions of the existing Ferry Building boiler room at a cost of $3,000. On January 9, 1996, the Commission approved the award of an additional portion of Phase 3 work, including preparation of contract documents and construction oversight for the installation of a new boiler room and new shearwalls within the Ferry Building. The cost of this work was $30,000.

PHASE 4: Prepare as-needed specifications and provide oversight services for ongoing asbestos abatement activity at other facilities which includes emergency asbestos abatement work on steam pipe leaks, asbestos spills, and damage to thermal system insulation or fireproofing.

Staff recommends that authorization be given to execute Phase 4 work which will consist of preparation of contract documents and all construction oversight for asbestos abatement services on the Pier 48 Earthquake Repair Project. This project is for the seismic repairs to the Pier 48 shed structures damaged during the 1989 Loma Prieta Earthquake. The work is scheduled to commence in November, 1996 and is scheduled for completion in May, 1997. The cost of this consulting work is $13,915 and is fully funded by FEMA/OES.

Including Phase 4, the total cost of all four (4) phases of this consulting contract is $181,225. Approval of Phase 4 will close out this contract.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-94

WHEREAS, the Commission previously approved the award of the professional services contract for asbestos abatement oversight consultant services to Galson Corporation; and

WHEREAS, the contract's scope of services was divided into four phases: Phase 1, Phase 2, Phase 3 and Phase 4; and

WHEREAS, previously, three phases of work have been executed as funds became available; and

WHEREAS, FEMA/OES funding is available for the Pier 48 earthquake repair project; now therefore be it

RESOLVED, that the Commission hereby authorizes staff to execute Phase 4 of Contract SA 3920019 to Galson Corporation for $13,915 to prepare contract documents and provide construction oversight services for the Pier 48 earthquake repair project.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 10, 1996.

_____
Secretary

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CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

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MINUTES OF THE MEETING
SEPTEMBER 10, 1996

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:11 p.m. The following Commissioners were present: Michael Hardeman, Frankie Lee and Denise McCarthy. Commissioners Cook and Herman were not present.

2. APPROVAL OF MINUTES - August 27, 1996

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

3. EXECUTIVE

A. Executive Director's Report: Mr. Bouey reported the following:

1) Forward Rate Agreement - at the last meeting, the Commission approved a revision to the Forward Rate Agreement. Staff has received an acceptable bid of 6.1%. The maximum interest that the Port can receive is 5-3/4%. The bidder will capture the difference between 5-3/4% to 6.1% until the year 2004. The Port is assured that it will receive the maximum interest for its bond reserve fund through the year 2004.

2) Draft General Management Plan for S.F. Maritime National Historic Park

The Port recently joined members of the Fisherman's Wharf community to testify before the Advisory Commission of the San Francisco Maritime National Historic Park in support of the long-awaited Draft General Management Plan.

Port staff believes the preferred alternative in this Plan provides the most realistic planning and development framework for the Park's facilities, including the historic vessels, the Hyde Street Pier and the Hasllet Warehouse.

Staff also believes it will assist our mutual efforts to ensure the compatibility of cultural, recreational and visitor oriented uses with the commercial fishing industry, including the Port's new Hyde Street Fishing Harbor.

Port staff will submit written comments based on our staff's detailed review of the General Management Plan to the Park Superintendent by September 27.

3) Serpac: The Port and Serpac have reached an agreement and a contract will be signed in the next week. The Serpac consortium is made up of three lines: Chilean, Grancolombiana and Columbus Lines. They used to call at Pier 96 but left ten months ago for Oakland. Staff believes that this is the first dividend of the Port's refocused maritime strategy. The Port's market is in the niche market with breakbulk, non-intermodal container and project cargo.

The first Serpac ship is tentatively scheduled to arrive at the Port on October 2. The week after, staff plans to throw a small reception for Serpac and its cargo shippers to carry forth our message that the Port of San Francisco is a hospitable place to do business. Staff has had long discussions with SSA and indicated that our marketing role is enhanced when we deliver first-class service. Staff will ensure that Serpac receives the best quality service as the Port considers them its breakthrough customer. As the Commission is aware, staff is also in discussions with several other companies and hope that Serpac's arrival will pave the way for other customers to come to San Francisco.

He credited Jill Simpson for her persistent efforts in bringing the Serpac Consortium to the Port of San Francisco. The Port owes a great deal of gratitude to Ms. Simpson for her efforts and hard work.

4. LEGISLATIVE

5. TENANT & MARITIME SERVICES

A. Approval of percentage rental adjustment for Alioto's #8 and Alioto Expo Restaurants at Fisherman's Wharf. (Resolution No. 96-69)

Mr. Bouey stated that in 1970, the Port entered into a number of 66 year Fisherman's Wharf restaurant leases. Under the terms of these leases, the percentage rents may be reset every 25 years. The first adjustment of these leases was to take place on May 1, 1995.

On February 27 and April 9, 1996, the Port Commission approved adjustments for all of these leases except for two -- Alioto's No. 8 and Alioto's Exposition.

The primary issue of contention was what percentage rent should be applicable to the small parking lot on the premises of the Exposition. The percentage rent to be paid on this lot would also be extended to an adjacent lot rented by the Alioto's on a month-to-month basis.

Staff recommends that for both leases, the percentage rent for food be increased from 5% to 6.5%. The beverage remains the same at 6.5%. All other items be increased from 6.5% to 8.5%.

For parking, the percentage rent would be 30% on gross sales after deducting parking taxes actually paid, provided that if the Port terminates the month-to-month tenancy,

Alioto's shall have the right to seek a redetermination by the Port of the parking percentage rent for the remaining parking lot. In no event will the percentage rent be more than 25%.

All of these rates are retroactive in full to May 1, 1995 with the exception of the parking lot wherein the Alioto's are only liable for 50% plus $5,000 of the amount due based on the new rate as of May 1, 1995.

He mentioned that he's happy to bring these negotiations to a conclusion. A new substitute resolution which removes the term "of gross sales" in all of the "resolves" except for the parking, which is 30% of gross sales after deducting parking taxes that are actually paid.

Commissioner Lee commended staff for the successful conclusion of the negotiation.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Approval for the Executive Director to enter into an Entry Permit with Kajima International for Environmental and Engineering Investigations and Amendment of the Indemnity Agreement with China Basin Ballpark Company ("Giants"). (Resolution No. 96-91) **THIS ITEM WAS PUT OVER**

C. Consent to License Agreement between the San Francisco Redevelopment Agency and Oriental Warehouse Associates for installation of a forced main sewer line located under Delancey Street, between Brannan Street and the Embarcadero. (Resolution No. 96-92)

Mr. Bouey stated the Oriental Warehouse Associates needs to build a forced main sewer line that will have to pass through land owned by the Port but currently leased to the Agency. For the Agency to issue a license to install the forced main sewer line, permission from the Port is needed. The package outlines the details of the license but it does not materially affect the operation or the mission of the Port.

Commissioner Lee inquired about the status of the Oriental Warehouse project. Mr. Mike Gray, Reliance Development Group, developer of the Oriental Warehouse stated that they commenced construction a year ago. The first phase should be completed this month; the second phase next month and the final phase in December. The models are opening on Sunday.

ACTION: Commissioner McCarthy moved approval; Commissioner Lee seconded the motion. All of the Commissioners were present; the resolution was adopted.

6. FACILITIES & OPERATIONS

A. Authorization to award Contract No. 2616, "Pier 35, Escalator/Elevator Design/Build," to CICO-R&W, a Joint Venture. (Resolution No. 96-93)

Mr. Bouey stated that the Commission previously authorized the bid for this contract. The current cruise terminal, for a number of reasons, does not put San Francisco's best foot forward. Given a dream world, we would build a new one. Staff instead looked at what would best serve the clientele using the facility and requests the Commission to award the contract for the installation of two new escalators, installation of a new passenger elevator, installation of modifications and additions to the existing fire suppression systems, installation of modifications and additions to the existing power and general and emergency lighting systems and installation of architectural finishes, new exit stairs, doors and windows along the passengers' path-of-travel. The low bid is that of a joint venture, which is 51% MBE and 49% non-MBE.

In response to Commissioner Lee's inquiry about the project's completion date, Mr. Bouey replied that the project's estimated completion date is April 1997.

Commissioner McCarthy inquired if staff reviews the low bidder's previous work. She noticed a fair amount of discrepancy in some of the bid prices. Mr. Bouey replied that staff does review the bidders previous work experience. He added that on contracts with unit pricing, tremendous variances between contractors on bid items often occur. It's a matter of contractors trying to guess how a project may go wrong so they can capitalize on it.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were present; the resolution was adopted.

B. Approval to authorize the execution of Phase 4 of the Professional Services Contract No. SA 3920019, "Asbestos Abatement Oversight and Consultation Services," with Galson Corporation at Pier 48. (Resolution No. 96-94)

Mr. Bouey stated that this is the fourth and final phase of this contract, which consists of preparation of contract documents and construction oversight for asbestos services on Pier 48 Building 111 at Pier 70.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were present; the resolution was adopted.

7. PLANNING & DEVELOPMENT

8. ADMINISTRATION

9. CONSENT CALENDAR

10. NEW BUSINESS / PUBLIC COMMENT

The Commission complimented Jill Simpson for her efforts in persuading the Serpac Consortium to call at the Port of San Francisco. The Commission also complimented the Executive Director and staff involved in the successful negotiation of the Alioto lease.

11. EXECUTIVE SESSION

At 4:30 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both

At 5:15 p.m., Commissioners Hardeman, Lee and McCarthy returned from executive session and convened in public session.

ACTION: Commissioner Lee moved approval to not disclose any information discussed in the executive session; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 5:17 p.m.

SAN FRANCISCO
PORT COMMISSION

SF
355
#1
1/24/96

REGULAR MEETING
4:00 P.M., TUESDAY, SEPTEMBER 24, 1996
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

AGENDA

DOCUMENTS DEPT.
SEP 20 1996
SAN FRANCISCO
PUBLIC LIBRARY

1. **ROLL CALL**

2. **APPROVAL OF MINUTES** - September 10, 1996

3. **EXECUTIVE**

   A. Executive Director's Report

4. **LEGISLATIVE**

5. **TENANT & MARITIME SERVICES**

   A. Approval of the Serpac Consortium Marine Terminal Agreements at Pier 94/96. (Resolution No. 96-98)

   B. Amendment to Resolution No. 96-33 for Authorization to Issue Amendments to the Request for Proposals document ("RFP") to lease Mission Rock Resort Restaurant located at 817 Terry Francois Boulevard. (Amended Resolution No. 96-33)

6. **FACILITIES & OPERATIONS**

   A. Public Hearing on the intention of the Port of San Francisco to issue permits to relocate and install J.C. Decaux Public Service/Advertising Kiosks from Hyde and Jefferson Streets to mid-block Jefferson between Hyde and Leavenworth and from Mason and Jefferson Streets to north side, mid-block Jefferson between Mason and Taylor. (Resolution No. 96-97)

   B. Authorization to award Construction Contract No. 2594, "Ferry Building Seismic Repair Stage II," to CICO-R&W, a Joint Venture. (Resolution No. 96-100)

   C. Authorize staff to issue a Request for Proposals (RFP) for design of improvements for a new maintenance facility and, in the alternative, authorize the Executive Director in his discretion to seek authorization from the Board of Supervisors for use of a negotiated "best value" procurement methodology so as to be able to issue a Request for Proposals for a design/build contract. (Resolution No. 96-101)

7. PLANNING & DEVELOPMENT

A. Approval of contract amendment for the Duffey Company for additional analysis to complete the Environmental Impact Report for the Hyde Street Fishing Harbor. (Resolution No. 96-95)

8. ADMINISTRATION

A. Approval of resolution designating the Executive Director to serve as the Port Commission's Official Spokesperson to the Investment Community (Resolution No. 96-99)

9. CONSENT CALENDAR

10. NEW BUSINESS / PUBLIC COMMENT

11. EXECUTIVE SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Executive Vice President

Under Negotiation: ____ Price ____ Terms of Payment ✓ Both
An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

12. ADJOURNMENT

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary.

PORT OF SAN FRANCISCO

MEMORANDUM

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

September 16, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: APPROVAL OF THE SERPAC CONSORTIUM MARINE TERMINAL AGREEMENTS

DIRECTOR'S RECOMMENDATION: APPROVE THE THREE 5-YEAR MARINE TERMINAL AGREEMENTS WITH COMPANIA SUD AMERICANA DE VAPORES, FLOTA MERCANTE GRANCOLOMBIANA, AND COLUMBUS LINE JOINTLY KNOWN AS THE SERPAC CONSORTIUM AT PIER 94/96.

The Port has concluded negotiations for three Five-year Marine Terminal Agreements with Compania Sud-Americana De Vapores (CSAV), Columbus Line, Flota Mercante Grancolombiana, S.A. (FMG) which will become effective on October 1, 1996. Their first vessel call is expected on October 2, 1996.

The three carriers provide a joint service to and from South America, loading their respective customer's cargo onto each others' ships. This joint service is called the Serpac Consortium. Serpac vessels are expected to make bi-weekly calls. Port staff have negotiated individual agreements with each carrier. Material provisions include the following: (i) five year term, with the ability of either party to terminate as of each anniversary date; (ii) reduced wharfage and dockage rates based on the total combined volume of the Serpac Consortium; (iii) nomination of Pier 94/96 as their regular published Bay Area port of call, and (iv) one month's free wharfage as an early signing bonus for signing a Letter of Intent on August 31, 1996.

THIS PRINT COVERS CALENDAR ITEM NO. 5A

Estimated annual revenue for the combined agreements is approximately $400,000 from wharfage, dockage, and crane rental. A copy of one of the agreements is attached hereto.

Prepared by: Lewis Wiseman, Director Tenant and Maritime Services

PORT OF SAN FRANCISCO
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-98**

WHEREAS, Compania Sud-Americana de Vapores (CSAV), Columbus Line and Flota Mercante Grancolombiana, S.A. (FMG), collectively known as the Serpac Consortium, desire to enter into a Marine Terminal Agreement with the Port, for use of Port's marine facilities; and

WHEREAS, said agreements grant the individual Serpac members reduced dockage and wharfage charges based on the total Serpac annual volume in return for the utilization of the Carriers of Pier 94/96 as their regularly scheduled Northern California port of call; now, therefore, be it

RESOLVED, that the San Francisco Port Commission approves the Marine Terminal Agreement with Compania Sud Americana de Vapores, the Marine Terminal Agreement with Columbus Line, and the Marine Terminal Agreement with Flota Mercante Grancolombiana, in substantially the form of which is on file with the Secretary of the Port Commission for this agenda item; and be it further

RESOLVED, that the San Francisco Port Commission authorizes the Executive Director to: (i) enter into the agreements; (ii) make any necessary refinements to the agreements as are approved by the City Attorney; and (iii) file the agreements with the Federal Maritime Commission; and (iv) take all such further actions as are necessary to put the agreements into effect.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 24, 1996.

_____
Secretary

CITY AND COUNTY OF SAN FRANCISCO

Willie L. Brown, Jr. , Mayor

MARINE TERMINAL AGREEMENT

BETWEEN

COMPANIA SUD-AMERICANA DE VAPORES, S.A. (CSAV)
SERPAC SERVICE

AND

THE CITY AND COUNTY OF SAN FRANCISCO,

A MUNICIPAL CORPORATION, ACTING BY AND THROUGH

THE SAN FRANCISCO PORT COMMISSION

DATED

September 24, 1996

SAN FRANCISCO PORT COMMISSION

MIKE HARDEMAN, PRESIDENT
FRANKIE G. LEE, VICE PRESIDENT
JAMES R. HERMAN, COMMISSIONER
DENISE McCARTHY, COMMISSIONER
PRESTON COOK, COMMISSIONER

DENNIS P. BOUEY
EXECUTIVE DIRECTOR

COPY

MARINE TERMINAL AGREEMENT

This non-exclusive Marine Terminal Agreement (the "Agreement") is entered into as of this _____ day of _____, 1996 by and between the City and County of San Francisco, a municipal corporation ("City"), acting by and through the San Francisco Port Commission ("Port") and Compania Sud-Americana de Vapores, S.A. (CSAV) Serpac Service, a Chilean Corporation ("Carrier").

WITNESSETH

WHEREAS, City owns certain property located in the City and County of San Francisco pursuant to an act of the legislature of the State of California commonly known as the "Burton Act" (Statutes 1968, Chapter 1333); and

WHEREAS, Pursuant to the Burton Act and the City's Charter, Port exercises jurisdiction and control over said property; and

WHEREAS, Carrier wishes to use a portion of said property which has been improved with a marine terminal for the purpose of moving waterborne cargo through the Port; and

WHEREAS, Port desires to have Carrier use the property for said uses, with said uses being consistent with the public trusts upon which the property is held;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, Port and Carrier agree as follows:

ARTICLE I. CARRIER'S TERMINAL RIGHTS

Section 1.01 Right to Use Facilities

Carrier shall have a non-exclusive right to use South Container Terminal, located at the Port of San Francisco in the City and County of San Francisco (the "Facilities") for the purposes set forth in Article III of this Agreement.

Section 1.02 Right to Transfer

It is understood and agreed that Carrier and Port shall have the right during the term of this Agreement to transfer its rights and obligations under this Agreement to any of the Port's other container terminals. If Carrier or Port wishes to transfer its rights and obligations under this Agreement, it shall provide not less than 60 days' prior written notice to the other Party. No transfer shall be effective without the written consent of the Executive Director of the Port, which consent shall not be unreasonably withheld. In addition, any transfer agreement shall be embodied in an amendment to this Agreement which shall not be effective until filed with the Federal Maritime Commission and deemed effective under the Shipping Act of 1984. It is understood and

agreed that the Executive Director will not be deemed unreasonable in withholding consent to a transfer of Carrier's rights hereunder if the proposed transfer would adversely affect Port revenues or create congestion problems for the Port.

It is further understood that if in such event the transfer involves a different terminal operator than the operator listed under section 5.01 under this Agreement, Carrier shall use its best efforts in good faith to negotiate new terminal services arrangements with the terminal operator at the facility and if Carrier after such best efforts is reasonably unable to complete such terminal services arrangements, Carrier may terminate this Agreement on no less than sixty (60) days' prior written notice to the Port.

ARTICLE II. TERM

Section 2.01 Commencement of Term

The term of this Agreement shall commence on the first day of the month immediately following the occurrence of all of the following events (the "Commencement Date"):

(a) The filing with and approval of this Agreement by the Federal Maritime Commission, or effectiveness without approval pursuant to the Shipping Act of 1984, or a ruling by the Federal Maritime Commission that such approval is not required; and

(b) Approval of this Agreement by the San Francisco Port Commission.

Port will notify Carrier of the Commencement Date in writing when all of the approvals set forth above have been obtained.

Section 2.02 Term Termination

This Agreement shall terminate five years from the Commencement Date, unless terminated earlier as provided for herein.

ARTICLE III. USE OF THE FACILITIES

Section 3.01 Permitted Uses

Carrier shall use the Facilities as its published regularly scheduled Northern California port of call for the berthing of Carrier's vessels and the loading and discharging of cargoes therefrom and operations ancillary thereto, and for no other purposes.

ARTICLE IV. COMPENSATION

Section 4.01 When Tariff Provisions Apply

Except as expressly set forth in Section 4.02 below, the provisions of San Francisco Port Commission Tariff No. 4-C, publishing rules and regulations and rates and charges for wharfinger services at property used as marine terminals at the Port of San Francisco, and amendments and subsequent reissues thereof (collectively, "Tariff"), shall apply to Carrier's use of the Facilities pursuant to this Agreement. Carrier agrees to be bound by and comply with the provisions of the Tariff.

Section 4.02 Fees for Use

As consideration to Carrier for the use of the Facilities as Carrier's regularly scheduled Northern California port of call and for the additional cargoes handled at the facility by fellow SERPAC carriers, herein defined, the following provisions shall govern the amount of dockage and wharfage due to Port from Carrier as a result of Carrier's use of the Facilities. For the Purposes of this Section 4.02, the combined container cargoes of Company, Columbus Lines, Inc. A German Corporation, Companina Sud-Americana de Vapores, a Chilean Corporation, and Flota Mercante Grancolombiana, a Colombian Corporation, collectively doing business as "SERPAC" under the cooperative working agreement filed with the Federal Maritime Commission as FMC 03-011298, as amended, shall apply to the Wharfage Rate Schedule described in 4.02 (b), below.

The Parties agree that other line(s) which may enter into an FMC-filed cooperative working agreement with the SERPAC carriers, as defined above, may enjoy the privileges of this agreement provided that such line(s) execute a Marine Terminal Agreement with the Port of San Francisco.

(a) Dockage:

Carrier shall pay 60% of the applicable tariff on dockage charges which would otherwise be due to Port pursuant to the provisions of the Tariff.

(b) Wharfage/Full Containers:

Wharfage on full containers shall be paid by Carrier according to the following schedule, base on annual throughput volume per twelve-month Contract Year (as hereinafter defined) of this Agreement:

Wharfage Rate

$45.00 per Unit for the first 5,999 Units per contract year
$35.00 per Unit for each additional Unit over 5,999 per contract year

(c) Wharfage on empty containers will be $0.00

(d) Wharfage/Breakbulk:

Carrier shall pay wharfage on breakbulk cargo at a rate of $3.09 per revenue ton, as freighted and $2.40 per 1000 kgs for all project cargoes.

(e) Free Time will be granted to the carriers as listed below. It is agreed that this free time is subject to approval of the carriers and will not be granted by the Port to any third party doing business with SERPAC without prior approval.

General Cargo	45 days
Coffee	60 days
Project cargoes	60 days

(f) If this contract or a letter of intent is signed by August 31, 1996 the Port of San Francisco agrees to waive the wharfage charges for the first month of operation.

(g) Equalization - Carrier may deduct from wharfage payments equalization paid in accordance with the provisions of Carrier's FMC tariff, with respect to East Bay cargo delivered to or from San Francisco by truck. Documentation supporting the payment of such equalization must be submitted with the wharfage statement for the vessel to which subject cargo has been loaded and the amount of equalization deducted shall not exceed $20.00 per unit and shall not exceed 50% of total annual units of the Serpac Consortium.

For the purposes of this section, a "Contract Year" shall commence on each October 1 and shall end on September 30 of the following year. Notwithstanding the Commencement Date, the first Contract Year of this Agreement shall be from October 1, 1996 to September 30, 1997.

Section 4.03 Rate Adjustments

Rates stated in Section 4.02 will be guaranteed for the life of the contract.

Section 4.04 Calculation of Initial Fees

Within ninety days after the Commencement Date, Port and Carrier shall mutually determine the fees due the Port under Section 4.02 above, calculated as if this Agreement had commenced on October 1,1996. Any amount that Carrier paid Port which exceeds the amount which would have been charged under the preceding sentence will be refunded to Carrier after the Commencement Date.

ARTICLE V. MANAGEMENT OF FACILITIES

Section 5.01 Management Agreement

Carrier acknowledges and agrees that as of the Commencement Date, the responsibility of managing the Facilities has been assigned by Port to Stevedoring Services of America ("S.S.A" or "Management Contractor"), pursuant to that certain Management Agreement between S.S.A. and Port dated September 1993.

ARTICLE VI. TERMINATION

Section 6.01 Termination by Governmental Action

In the event the United States of America or the State of California, or any other governmental authority, shall, by condemnation or otherwise, take title, possession or the right to possession of the Facilities, or any part thereof, Port may, at its option, and, if the taking has substantially impaired Carrier's use of the Facilities, Carrier may, at its option, terminate this Agreement as of the date of such taking, and all further obligations of the parties shall end, except as to liabilities which shall have accrued prior to the date of taking.

Section 6.02 Termination by Judicial Action

In the event any court having jurisdiction over the subject matter of this Agreement shall render a decision which has become final and which will prevent the performance by Carrier or Port of their obligations hereunder, then either party may terminate this Agreement upon thirty (30) days written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall thereupon terminate.

Section 6.03 Right of Termination

Carrier and Port shall have the right to terminate this Agreement without penalty effective on October 1, 1997 and on each October 1 thereafter throughout the Term (each "Termination Date"). Carrier or Port must Exercise such termination right by delivering written notice of termination from or to Port or Carrier at least sixty (60) days prior to the Termination Date upon which Carrier or Port desires to terminate. In the event Carrier fails to give timely notice, Carrier may not terminate this agreement until the following Termination Date with proper notice as set forth herein.

Section 6.04 Termination in Event of Change in Serpac Agreement

The Parties agree that in the event that Carrier or SERPAC enters into a Federal Maritime Commission-filed space sharing agreement with another carrier or carriers which have contract(s) in San Francisco or should a carrier of SERPAC resign to the SERPAC agreement or SERPAC agreement be terminated, then carrier will be relieved of further obligations under this Agreement without penalty and with immediate effect.

Section 6.05 Termination by Resignation of Terminal Contractor

In the event Management Contractor, as defined in Section 5.01, gives Port notice of its intention to cease operations at the Port, Port shall make its best effort to negotiate an agreement with a new management contractor. In the event Port is unable to successfully conclude such an agreement within sixty (60) days after receiving such notice from Management Contractor, the Port may, at its option, terminate this Agreement upon thirty (30) days prior written notice to Carrier, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrue prior to the effective date of termination) shall thereupon terminate.

It is further understood that if in such event a new management contractor is appointed other than defined in Section 5.01 under this agreement, Carrier shall use its best efforts in good faith to negotiate new terminal services arrangements with the new management contractor and if Carrier after such best efforts is reasonably unable to complete such terminal services arrangements, Carrier may terminate this Agreement on not less than sixty (60) days' prior written notice to the Port.

ARTICLE VII. MISCELLANEOUS PROVISIONS

Section 7.01 Taxes

A possessory interest subject to property taxation may be created by this Agreement, and it is understood by the Carrier and the Port that the Port of San Francisco will be responsible for the payment of property taxes levied on such possessory interest. The Carrier will not be billed by the Port or be responsible for payment of the possessory interest. Carrier agrees to provide to Port all information requested by Port for tax purposes, including but not limited to the information described in California Revenue and Taxation Code Section 480.5.

Section 7.02 Books and Records

Carrier shall keep full and accurate books, records and accounts relating to all its operations upon the Facilities, including without limitation, the tonnage of revenue cargo handled, vessel occupancy of the berths and containers handled. Port shall have the right and privilege through its representatives and at all reasonable times to inspect such books, records and accounts. If such books, records and accounts are not kept and maintained within a 25-mile radius of the City and County of San Francisco, Carrier shall make such books, records and accounts available for inspection within said 25-mile radius.

Section 7.03 Nondiscrimination

Carrier shall not, in the use of the Facilities, discriminate against any person or group of persons because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or acquired immune deficiency syndrome (AIDS) or AIDS-related condition (ARC). The provisions of Chapters 12B and 12C of the San Francisco Administrative Code, relating to nondiscrimination by parties contracting with the City and

County of San Francisco, are incorporated herein by this reference and made a part hereof as though fully set forth herein. Carrier agrees to comply with all provisions of Chapters 12B and 12C of the San Francisco Administrative Code which apply to Carrier's use of the Facilities pursuant to this Agreement.

Section 7.04 Hazardous Materials, Etc.

In addition to provisions in the Tariff governing discharge of oil upon navigable waters (Item 113) and explosives and other hazardous and dangerous cargo (Item 117), Carrier will comply with the labeling, packaging, storage and documentation requirements for hazardous materials contained in Title 49, Code of Federal Regulations Parts 100-195, United States Department of Transportation Regulations and the marine pollution regulations contained in Title 33, Code of Federal Regulations Parts 151-157, Navigation and Navigable Waters. The references to certain laws and regulations set forth above shall apply to any modification, re-issues or amendments to said laws or regulations. In addition, Carrier will report immediately all accidents involving spills of corrosives, explosives or other flammable or dangerous cargoes to the appropriate federal, state, local and Port authorities. As used in this Agreement, "hazardous materials" shall mean any substance, waste or material which has been determined by any state, federal or local government authority to be a hazardous or toxic substance or material including without limitation, any hazardous substance as defined in Section 101 (14) of CERCLA (42 USC Section 9601 (14)) or Section 25281 or 25316 of the California Health and Safety Code, and any hazardous material as defined in Section 25501 of the California Health and Safety Code, and any additional substances or materials which at such time are classified or considered to be hazardous or toxic under any federal, state or local law, regulation or other exercise of governmental authority. If the presence of any hazardous material on the Facilities caused or permitted by Carrier results in any contamination of the Facilities, Carrier, at its sole expense, shall promptly take all action that is necessary to return the Facilities to the condition existing prior to the introduction of such hazardous material onto the Facilities; provided that Port approval of such actions shall first be obtained, which approval shall not unreasonably withheld as long as such actions could not potentially have any material adverse effect upon the Facilities. Carrier's obligations hereunder shall survive the termination of this Agreement.

Section 7.05 Exculpation and Indemnity

(a) Exculpation. Carrier, as a material part of the consideration to be rendered to Port, hereby waives any and all claims against the City and Port, and their officers, agents and employees, and agrees to hold Port and City and their officers, agents and employees harmless from any claims for damages to goods, wares, goodwill, merchandise, equipment or business opportunities and by persons in, upon or about said Facility for any cause arising at any time, including all claims arising from the joint or concurrent negligence of Port or City, or their officers, agents, or employees, but excluding any intentionally harmful acts committed solely by Port or City.

(b) General Indemnity. Carrier agrees to indemnify, hold harmless and defend, the City and Port and their officers, agents and employees, against any and all claims, judgments, losses, costs, damages, penalties, fines or liabilities of whatever kind

(collectively "Claims") arising in any manner out of any injury to or death of any person or damage to or destruction of any property occurring in, on, under or about the Facilities, or any part thereof, whether to the person or property of Carrier, its employees, agents, consultants, contractors, or subcontractors (collectively "Agents"), or third persons, resulting from any use or activity of Carrier or its Agents under this Agreement, (ii) any failure by Carrier to faithfully observe or perform any of the terms, covenants or conditions of this Agreement, or (iii) the use of the Facilities or any activities conducted thereon under this Agreement by Carrier or its Agents; except only to the extent of Claims resulting directly from the negligence or willful misconduct of the City or Port or either's authorized representative.

(c) Toxics Indemnity. Carrier agrees to indemnify, hold harmless and defend the City and Port and their officers, agents and employees, from and against any and all claims, demands, actions, causes of actions or suit (actual or threatened), losses, costs, expenses, obligations, liabilities, or damages, including interest, penalties, diminution in value of the facilities, engineering consultant and attorneys' fees of every kind, nature and description, (collectively "Toxics Claims") resulting from any Release of a Hazardous Material caused by or allowed by Carrier or its agents whether or not the Hazardous Materials at the Facilities were present prior to execution of this Agreement; (ii) any requirement of a regulatory agency for investigation or remediation of any Hazardous Materials at the Facilities arising out of or in connection with the activities under this Agreement; or (iii) any breach of or failure to duly perform or observe any term, covenant or agreement in this Agreement to be performed or observed by Carrier, including but not limited to, any violation of any Environmental Law; except only to the extent of Toxic Claims resulting directly from the negligence or willful misconduct of City or Port or either's authorized representative. "Environmental Laws" means present or future any federal, state or local laws, ordinances, regulations or policies relating to Hazardous Material (including, without limitation, their use, handling, transportation, production, disposal, discharge or storage) or to health and safety, industrial hygiene or environmental conditions in, on, under or about the Permit Area, including, without limitation, soil, air, bay water and groundwater conditions.

(d) The foregoing indemnity obligations in paragraph 9(b) and 9(c) shall include reasonable attorney's fees, investigation costs and all other reasonable costs and expenses incurred by City or Port from the first notice that any Claim or Toxics Claim is or may be made. The provisions of this paragraph shall survive termination of this Agreement.

(e) In addition to Carrier's obligation to indemnify and hold harmless the City and Port, Carrier specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City and Port from any Claim or Toxics Claim which actually or potentially falls within the indemnification provisions of paragraph 9(b) or 9(c), even if the allegations are or may be groundless, false or fraudulent. Carrier's obligations to defend shall arise at the time such Claim or Toxics Claim is tendered to Permittee by City or Port and shall continue at all times thereafter.

Section 7.06 Compliance with Laws.

Carrier, at Carrier's expense, shall comply with all laws, ordinances, judicial decisions, orders and regulations of federal, state, county and municipal governments and the departments, courts, commissions, boards and officers thereof pertaining to Carrier's use of the Facilities in

effect either at the Commencement Date or at any time during the term.

Section 7.07 Notices

Any notice, demand or request provided for or permitted to be given pursuant to this Agreement must be in writing and shall be given or served by personal delivery or sent prepaid by either: (a) first-class mail; (b) certified mail with return receipt requested; or (c) overnight delivery service.

Notices shall be addressed as follows:

To Port: Executive Director
Port of San Francisco
Ferry Building, Suite 3100
San Francisco, CA 94111

To Carrier: Compania Sud-Americana de Vapores, S.A.
North American Liner Division
Sotomayor 50, Valparaiso, Chile

Section 7.08 Waiver.

No waiver by either party at any time of any of the terms, conditions, covenants or provisions of this Agreement shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or provisions herein contained nor of the strict and prompt performance thereof by the party obligated to perform.

Section 7.09 Applicable Law

This Agreement shall be governed by the laws of the State of California.

Section 7.10 Severability

Should any of the covenants, terms, conditions or provisions set forth in this Agreement be held by a court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining portions or provisions shall not be affected thereby.

Section 7.11 Amendments

Neither this Agreement nor any of the terms or conditions hereof may be amended, modified or waived, except by an instrument in writing signed by both Carrier and Port and approved by the Federal Maritime Commission if said approval is required.

Section 7.12 Assignment

Carrier shall not assign, convey or otherwise transfer its interest hereunder without the prior written consent of Port, which consent may be withheld in Port's sole and absolute discretion.

Section 7.13 Successors

Subject to the provisions of Section 7.12 above, this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Port and Carrier.

Section 7.14 MacBride Principles-Northern Ireland.

The City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

Section 7.15 Tropical Hardwood Ban.

The City and County of San Francisco urges Carrier not to import, purchase, obtain, or use for any purpose, any tropical hardwood or tropical hardwood product.
Section 7.16 Tobacco Products Advertising Ban. Carrier acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City. This prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or non-profit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

Section 7.17 Burma (Myanmar) Business Prohibition. Carrier represents to Port that Carrier is not the government of Burma (Myanmar), that Carrier is not a person or business entity organized under the laws of Burma (Myanmar), and that Carrier is not a "prohibited person or entity," defined in Section 12J.2.G. of the San Francisco Administrative Code as any person or entity designated by the Investor Responsibility Research Center as having investments or employees in Burma, or any person or entity that licenses any person or entity organized under the laws of Burma (Myanmar) to produce and market its products. Port reserves the right to terminate this agreement for default if Carrier violates the terms of this section 7.17.
//

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first written above.

PORT

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting
by and through the SAN FRANCISCO
PORT COMMISSION

By:_____
Name: DENNIS P. BOUEY
Title: Executive Director

Date Executed:_____

CARRIER:

Compania Sud-Americana de Vapores. S.A. (CSAV) Serpac Service, a Chilean corporation

by:
Name:
Title:

Date Executed

APPROVED AS TO FORM:

LOUISE H. RENNE
City Attorney

By:_____
Deputy City Attorney

I have read and understood paragraph 7.14 the City's statement urging companies doing business in Northern Ireland to more towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

PORT COMMISSION RESOLUTION

No._____

By:_____
Secretary
PORT COMMISSION

FMC No._____

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275340 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

September 18, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey for DB
Executive Director

SUBJECT: Amendment to Resolution No. 96-33 for Authorization to Issue Amendments to the Request for Proposals Document ("RFP") to Lease Mission Rock Resort Restaurant Located at 817 Terry Francois Blvd.

DIRECTOR'S RECOMMENDATION: AMEND RESOLUTION TO AUTHORIZE STAFF TO ISSUE AMENDMENTS TO THE REQUEST FOR PROPOSALS DOCUMENT ("RFP") TO LEASE MISSION ROCK RESORT RESTAURANT

Background

On April 23, 1996 the Port Commission passed Resolution No. 96-33 authorizing staff to offer, through a request for proposal (RFP) process, a lease for the Mission Rock Resort Restaurant (located at 817 Terry Francois Boulevard) in accordance with the terms set forth in the Memorandum to the Port Commission accompanying said Resolution. The RFP was issued on May 13, 1996 and a pre-proposal conference was held on June 19, 1996. To date, 63 RFP packages have been purchased.

Changes Requested

Due to the issues raised in questions and comments received at the pre-proposal conference and submitted subsequently by prospective proposers, Port staff has found it necessary to research and further clarify several terms and conditions of the RFP. To assure consistency and clarity, Port staff desires and is prepared to issue a First Amended RFP document.

The material provisions of the First Amended RFP include the following:

(i) extend the deadline for submission of proposals;

(ii) require that the Port will participate in the cost of hazardous materials remediation through rent credits (up to a maximum of $50,000), if necessary;

THIS PRINT COVERS CALENDAR ITEM NO. **5B**

(iii) eliminate the requirement for the successful proposer to specifically indemnify the Port for all hazardous materials remediation;

(iv) set forth the rent to be charged and rent abatement to be offered if proposers elect to re-construct the marina, which is an optional component of the RFP; and

(v) revise the evaluation and selection process, including the point scoring.

In order to authorize Port staff to issue the First Amended RFP, and to allow Port staff the flexibility to issue future amendments to clarify issues or extend deadlines, staff requests the Port Commission to amend the original Resolution No. 96-33 to authorize the Executive Director, or his designee, to issue amendments as the Executive Director, or his designee, deem necessary.

Prepared by: Lewis Wiseman, Director, Tenant & Maritime Services

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

AMENDED RESOLUTION NO. 96-33

WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port jurisdiction; and

WHEREAS, restaurant operations generate a significant revenue stream to the Port and the Port desires to operate its restaurant sites in an efficient manner which maximizes revenues; and

WHEREAS, there is a demand for waterfront gathering places which offer restaurant facilities; and

WHEREAS, the Mission Rock Resort has the potential to better meet this demand for a waterfront gathering place;

WHEREAS, the San Francisco Port Commission adopted Resolution No. 96-33 at its April 23, 1996 meeting authorizing staff to offer through an RFP process a lease for the Mission Rock Resort Restaurant; and

WHEREAS, the San Francisco Port Commission wishes to amend Resolution No. 96-33 to allow the Executive Director, or his designee, authority to issue amendments to the RFP as they become necessary; now, therefore, be it

RESOLVED, that the San Francisco Port Commission authorizes the Executive Director, or his designee, to offer through a request for proposal (RFP) process a fifteen-year lease for the Mission Rock Resort Restaurant located at 817 Terry Francois Boulevard substantially in conformance with the terms set forth in the Memorandum for Agenda Item No. 5A for the Port Commission meeting of April 23, 1996, and the Memorandum for Item No. 5B for the September 24, 1996 Port Commission meeting; both of which are on file with the Port Commission Secretary, and be it further

RESOLVED, that the San Francisco Port Commission authorizes the Executive Director, or his designee, to issue any further amendments to the RFP as the Executive Director, or his designee, deem necessary, and as approved by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 24, 1996.

_____
Secretary

I:\WP51\MRRRFPAM.AGS\ 9/18/96

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
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Writer

MEMORANDUM

September 24, 1996

TO: MEMBERS, PORT COMMISSION
Commissioner Michael Hardeman, President
Commissioner Frankie G. Lee, Vice President
Commissioner Preston Cook
Commissioner James Herman
Commissioner Denise McCarthy

FROM: Dennis P. Bouey (W for DB.
Executive Director

SUBJECT: Public Hearing on the intention to issue permits to relocate and install J.C. Decaux Public Service/Advertising Kiosks from Hyde and Jefferson Streets to mid-block Jefferson between Hyde and Leavenworth and from Mason and Jefferson Streets to north side, mid-block Jefferson between Mason and Taylor.

DIRECTOR'S RECOMMENDATION: AMEND RESOLUTION 95-38.

The Port Commission, the City and County of San Francisco, and the J.C. Decaux Company entered into a contract in April 1994 to install four self-cleaning public toilets and eight public service kiosks in the Port's jurisdiction. In Resolution 95-38 (attached hereto), the Commission authorized the locations of the toilets and kiosks. The Commission is requested to amend the resolution to allow relocation of two kiosks to new locations.

In subsequent meetings with the representatives of the Fisherman's Wharf community, two of the approved locations, Jefferson and Mason and Jefferson and Hyde, were identified as posing potential traffic conflicts with the proposed F-Line and endangering the walking public. The Port and the Mayor's Office, in cooperation with the Decaux representatives, have identified two new locations for the two kiosks in question. The Decaux company has reviewed the proposed locations and has agreed to move the kiosks at no cost to the City or Port.

THIS PRINT COVERS CALENDAR ITEM NO. 6A

The proposed locations are (drawings attached)--

Jefferson and Mason, the kiosk will be moved to the north side of Jefferson, west of the intersection with Mason. The kiosk will be set back to the rear of the sidewalk, 18 inches from the parking lot.

Jefferson and Hyde, the kiosk will be moved to east on Jefferson to approximately 75 to 100 feet from the eastern most edge of the Haslett Warehouse.

Public Notices were sent out in compliance with Department of Public Works Order No. 169,739 to all property owners within 150 foot radius of the proposed new location. Additionally Notices were sent to all Port tenants immediately adjacent to the proposed site and within the 150 foot radius.

Item Prepared by:
Cliff Jarrard, Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-97

WHEREAS, the Port Commission, the City and County of San Francisco, and the J.C. Decaux Company have entered (April 1994) into a contract to install self-cleaning public toilets and public service kiosks on Port property; and

WHEREAS, the contract provides that a total package of 4 public toilets and 8 public service kiosks will be located on Port property. All locations should be reviewed and approved by the Port Commission; and

WHEREAS, pursuant to the contract, the J.C. Decaux Company will install and maintain, at no cost to the Port, the public toilets and public service kiosks on Port property; and

WHEREAS, pursuant to the contract, the J.C. Decaux Company will submit engineering drawings to secure all necessary permits from the Chief Harbor Engineer and other regulatory agencies, with jurisdiction over the proposed facilities; now therefore be it

RESOLVED, the Port Commission approves the installation of public toilets and public service kiosks in the following locations:

Public Toilets
1. Pedestrian Promenade, near the Fire Station, Embarcadero and Folsom.
2. Marginal Wharf at Pier 7.
3 & 4. Powell, Jefferson and the Embarcadero, Fisherman's Wharf Triangle Parking Lot.

Public Service Kiosks
1. & 2. Market Street crosswalk, East side of Central Island and West side of Central Island along the Embarcadero, Ferry Building.
3. Pier 7.
4. Powell and the Embarcadero, Pier 39 Garage.
~~5. Mason and Jefferson.~~ North side of Jefferson, west of the Mason Street intersection.
6. Pier 41.
7. Taylor and Jefferson, Octagon building.
~~8. Jefferson and Hyde;~~ South side of Jefferson, 75 to 100 feet from the eastern edge of Haslett Warehouse;
be it further

RESOLVED, that the above locations are approximates and, if upon further technical investigations and discussions between the Executive Director and J.C. Decaux any of the site proves improbable, the Executive Director is hereby authorized to modify the locations to accommodate the placement of the Decaux facilities.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 24, 1996.

_____

Secretary

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 95-38

WHEREAS, the Port Commission, the City and County of San Francisco, and the J.C. Decaux Company have entered (April 1994) into a contract to install self-cleaning public toilets and public service kiosks on Port property; and

WHEREAS, the contract provides that a total package of 4 public toilets and 8 public service kiosks will be located on Port property. All locations should be reviewed and approved by the Port Commission; and

WHEREAS, pursuant to the contract, the J.C. Decaux Company will install and maintain, at no cost to the Port, the public toilets and public service kiosks on Port property; and

WHEREAS, pursuant to the contract (Sec. 4.03, B) the Executive Director will review and approve all non-commercial advertising materials to be placed on wither the public toilets or the public service kiosks. As part of the Executive Director's approval under the contract, he will review and approve a map of the Port of San Francisco; and

WHEREAS, pursuant to the contract, the J.C. Decaux Company will submit engineering drawings to secure all necessary permits from the Chief Harbor Engineer and other regulatory agencies, with jurisdiction over the proposed facilities; now therefore be it

RESOLVED, the Port Commission approves the installation of public toilets and public service kiosks in the following locations:

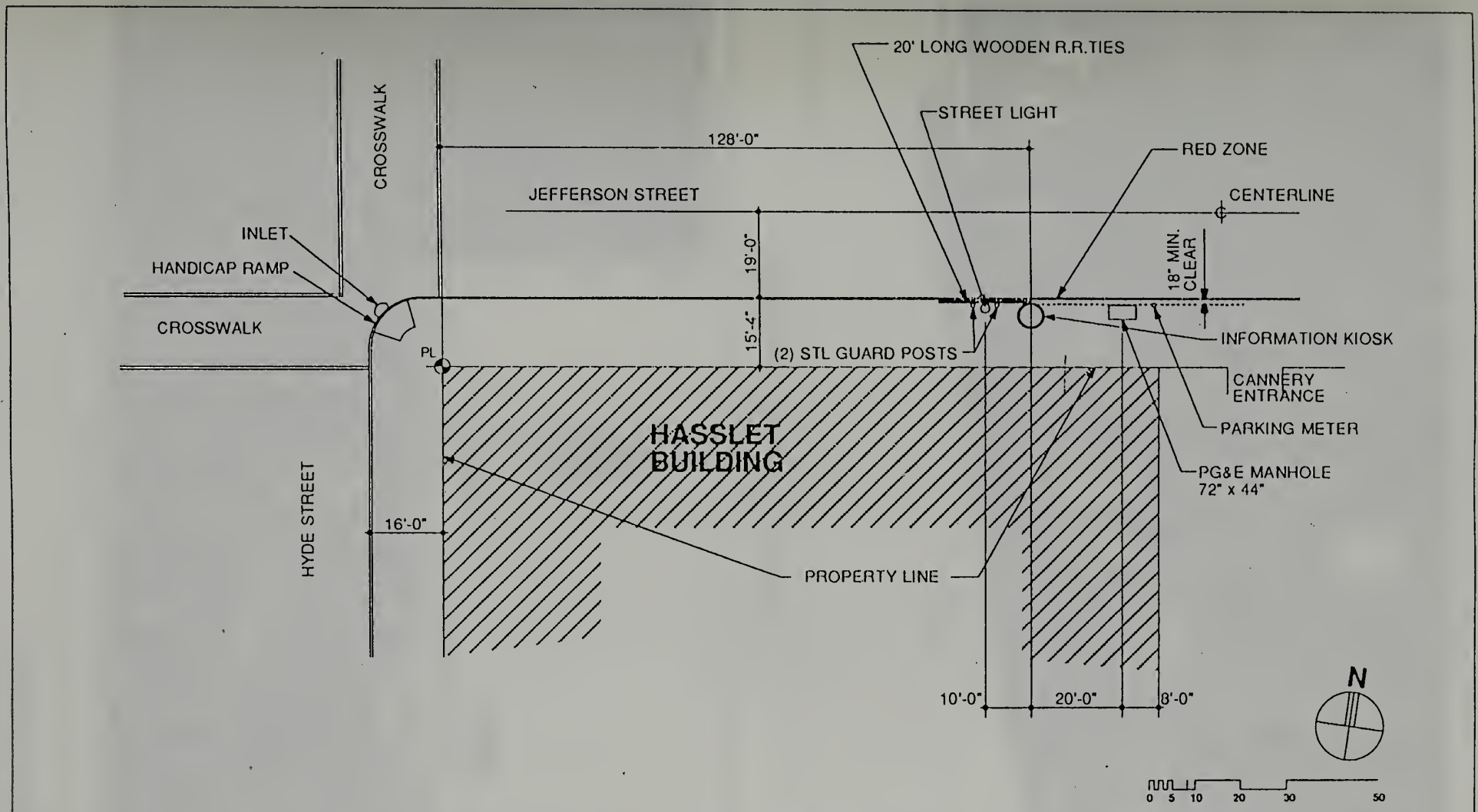
Public Toilets
1. Pedestrian Promenade, near the Fire Station, Embarcadero and Folsom.
2. Marginal Wharf at Pier 7.
3 & 4. Powell, Jefferson and the Embarcadero, Fisherman's Wharf Triangle Parking Lot.

Public Service Kiosks
1. Market Street crosswalk, East side of Central Island along the Embarcadero, Ferry Building.
2. Pier 7.
3. Pier 35, Western end of the Bulkhead Building.
4. Powell and the Embarcadero, Pier 39 Garage.
5. Mason and Jefferson.
6. Pier 41.
7. Taylor and Jefferson, Octagon building.
8. Jefferson and Hyde;
be it further

RESOLVED, that the above locations are approximates and the J.C. Decaux Company is not in complete agreement with several kiosk locations and, if upon further technical investigations and discussions between the Executive Director and J.C. Decaux any of the site proves improbable, the Executive Director is hereby authorized to modify the locations to accommodate the placement of the Decaux facilities.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 23, 1995.

Secretary

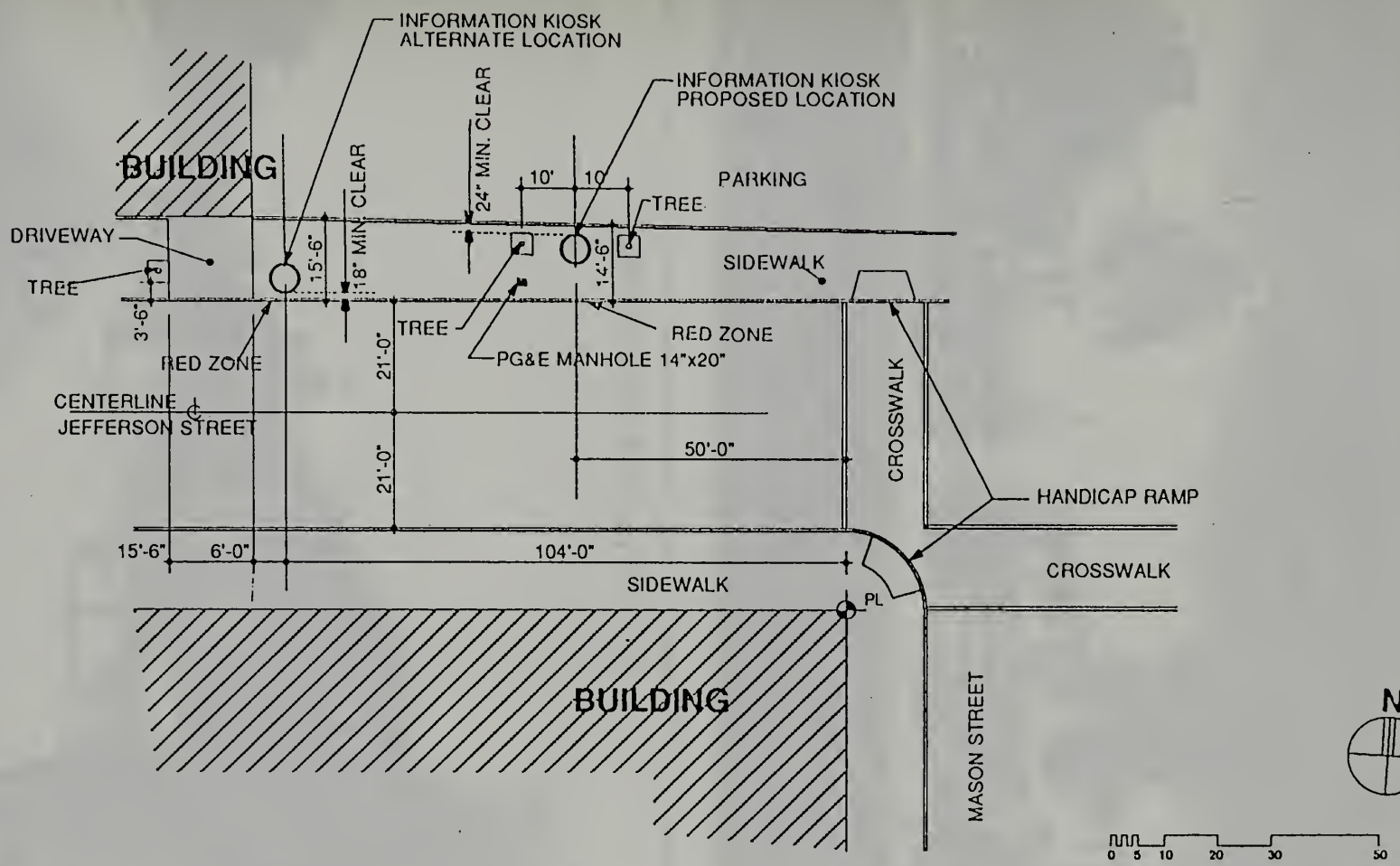


DATE: 08/06/96 SCALE: 1"= 20' DRAWN: EJL REV:	JOHN C. LEE ARCHITECTS/PLANNERS INC 116 NEW MONTGOMERY STREET SUITE 633 SAN FRANCISCO, CA 94105 tel [415] 882.4638 fax [415] 882 9866	JC DECAUX UNITED STREET FURNITURE, INC. INSTALLATION OF PUBLIC SERVICE KIOSK SAN FRANCISCO, CA	JEFFERSON & HYDE SOUTHEAST CORNER INFORMATION KIOSK PSK-#137 PUBLIC SERVICE KIOSK SITE SPECIFIC PLAN	PSK #137

écaux
TED STREET FURNITURE

Jefferson and Hyde Streets

For more information please contact:
Francois Nion at (415) 487-2300



DATE: 08/06/06 SCALE: 1" = 20' DRAWN: EJL REV:	JOHN C LEE ARCHITECTS/PLANNERS INC 116 NEW MONTGOMERY STREET SUITE 633 SAN FRANCISCO, CA 94105 tel [415] 882.4638 fax [415] 882.9866	JC DECAUX UNITED STREET FURNITURE, INC. INSTALLATION OF PUBLIC SERVICE KIOSK SAN FRANCISCO, CA	JEFFERSON & MASON NORTHWEST CORNER INFORMATION KIOSK PSK-#136 PUBLIC SERVICE KIOSK SITE SPECIFIC PLAN	PSK #136

OPTION #1

Jefferson and Mason Streets

OPTION #2

For more information please contact:
Francois Nion at (415) 487-2300

PORT OF SAN FRANCISCO

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Writer

MEMORANDUM

September 18, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: Construction Contract No. 2594, "Ferry Building Seismic Repair Stage II," Authorization To Award.

DIRECTOR'S RECOMMENDATION: AUTHORIZE STAFF TO AWARD CONTRACT NO. 2594, 'FERRY BUILDING SEISMIC REPAIR STAGE II," TO CICO-R&W, A JOINT VENTURE FOR $1,897,518.

On June 25, 1996, the Commission authorized staff to reject all bids and readvertise for bids for Contract No. 2594, "Ferry Building Seismic Repair Stage II." The project was readvertised. The work consists of the following items:

1. Construct concrete shear walls in specific locations on the three floors of the southern portion of the Ferry Building;

2. Perform hazardous materials abatement in the areas affected by the renovation work; and

3. Perform disability accessible upgrades as required by the governing codes.

Bids were received on September 4, 1996 and the Summary of Bids is attached. The low bidder is CICO-R&W, a Joint Venture, at a cost of $1,897,518. All documents are in order.

THIS PRINT COVERS CALENDAR ITEM NO. 6B

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The Human Rights Commission has reviewed the documents and determined that all MBE/WBE goals have been met as stated in the contract documents.

All work as specified in the contract is included in the FEMA/OES Damage Survey Reports (DSRs). However, at this time the contract amount exceeds the available funding in the DSRs by $1,031,000. Staff has requested a Supplemental DSR to cover the shortfall and it is anticipated that it will be approved. In the event that the Supplemental DSR is not approved or until such time as it is approved, the Port already has funds appropriated to cover the shortfall.

Staff recommends that the Commission authorize staff to award Construction Contract No. 2594, "Ferry Building Seismic Repair Stage II," to CICO-R&W, a Joint Venture, at a cost of $1,897,518; authorize a 10% contingency for possible Type 1 contract modifications; and authorize the Executive Director to accept the work once it is complete.

Prepared by: Cliff Jarrard
Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **96-100**

WHEREAS, the Commission previously authorized the readvertisement of Contract No. 2594, "Ferry Building Seismic Repair Stage II;" and

WHEREAS, the latest bids were received on September 4, 1996; and

WHEREAS, staff has reviewed the bid documents and determined that everything is in order; and

WHEREAS, the Human Rights Commission has reviewed the bid documents and determined that everything is in order; and

WHEREAS, all work as specified in the contract, is included in the FEMA/OES Damage Survey Reports (DSRs), however at this time the contract amount exceeds the funding in the DSRs; and

WHEREAS, staff has requested a Supplemental DSR to cover the shortfall and it is anticipated that it will be approved; and

WHEREAS, in the event that the Supplemental DSR is not approved or until such time as it is approved, the Port already has funds appropriated to cover the shortfall; now therefore be it

RESOLVED, that the Commission authorize staff to award Construction Contract No. 2594, "Ferry Building Seismic Repair Stage II," to CICO-R&W, a Joint Venture, at a cost of $1,897,518; authorize a 10% contingency for possible Type 1 contract modifications; and authorize the Executive Director to accept the work once it is complete.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 24, 1996.

_____
Secretary

I:\wp51\agd- 2594.cj

Project: FERRY BUILDING SEISMIC REPAIR STAGE II
Contract No.: 2594

Project Manager: JOE ROGER

Bid Item #	Description	Estimated Quantity	CICO-R&W, J.V. 99 THE EMBARCADERO SAN FRANCISCO, CA 94105 (415) 397-1336 Unit /LS Price	Total	CUEVAS & MANNION CONSTRUCTION 1641 HAWES STREET SAN FRANCISCO, CA 94124 (415) 822-3622 Unit /LS Price	Total
1	UTILITY RETROFITTING/RELOCATION WORK.	L.S.	$118,349.00	$118,349.00	$75,000.00	$75,000.00
2	CONSTRUCTION OF SHEARWALLS, STEEL BRACING AND ARCHITECTURAL WORK.	L.S.	$1,361,010.00	$1,361,010.00	$1,960,860.00	$1,960,860.00
3	LEAD-COATED ARCHITECTURAL ELEMENT DEMOLITION DUST CONTROL.	L.S.	$6,440.00	$6,440.00	$2,000.00	$2,000.00
4	LEAD-COATED STRUCTURAL STEEL SPOT ABATEMENT AT WELDS, ETC.	L.S.	$37,400.00	$37,400.00	$37,000.00	$37,000.00
5	PCB LIGHTING BALLAST DISPOSAL	L.S.	$2,200.00	$2,200.00	$2,500.00	$2,500.00
6	MERCURY-CONTAINING LAMP RECYCLING	L.S.	$2,750.00	$2,750.00	$3,000.00	$3,000.00
7	ASBESTOS ABATEMENT AND LEAD-BASED PAINT ABATEMENT CONTRACTOR'S PERSONNEL MONITORING DURING THE COURSE OF THE ASBESTOS ABATEMENT AND LEAD-HAZARD WORK AS SHOWN AND SPECIFIED.	L.S.	$7,700.00	$7,700.00	$7,000.00	$7,000.00
8	AGRICULTURE BUILDING TENANT IMPROVEMENTS	L.S.	$60,000.00	$60,000.00	$60,000.00	$60,000.00
9	ENVIRONMENTAL CONSULTING WORK	L.S.	$87,423.00	$87,423.00	$87,423.00	$87,423.00
	Total ALL LUMP SUM BID ITEMS 1 THROUGH 9			$1,683,272.00		$2,234,783.00

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See Note 1

Note 1: Bidder's mathematical error corrected. The listed total was $2,224,000.00.

Project: FERRY BUILDING SEISMIC REPAIR STAGE II
Contract No.: 2594

Project Manager: JOE ROGER

UNIT PRICE Item #	Description	Estimated Quantity	CICO-R&W, J.V 99 THE EMBARCADERO SAN FRANCISCO, CA 94105 (415) 397-1336 Unit /LS Price	Total	CUEVAS & MANNION CONSTRUCTION 1641 HAWES STREET SAN FRANCISCO, CA 94124 (415) 822-3622 Unit /LS Price	Total
1	CONSTRUCTION/INSTALLATION OF DISABILITY ACCESSIBLE PARKING STALL SPACE.	2	$2,200.00	$4,400.00	$1,000.00	$2,000.00
2	CONSTRUCTION OF DISABILITY ACCESSIBLE CONCRETE RAMP.	3	$2,750.00	$8,250.00	$1,500.00	$4,500.00
3	RENOVATIONS FOR DISABILITY ACCESSIBLE MEN'S PUBLIC RESTROOM, SECOND FLOOR.	1	$11,880.00	$11,880.00	$20,000.00	$20,000.00
4	RENOVATIONS FOR DISABILITY ACCESSIBLE WOMEN'S PUBLIC RESTROOM, SECOND FLOOR.	1	$11,880.00	$11,880.00	$10,000.00	$10,000.00
5	RENOVATIONS FOR DISABILITY ACCESSIBLE MEN'S OFFICE RESTROOM, THIRD FLOOR.	1	$11,680.00	$11,680.00	$10,000.00	$10,000.00
6	ASBESTOS ABATEMENT FOR ASBESTOS CONTAINING FIREPROOFING AND OVERSPRAY ON DECKING, ASBESTOS CONTAINING FIREPROOFING ON BEAMS, AND REMOVAL AND DISPOSAL OF INCIDENTAL CONTAMINATED FIBERGLASS DUCT INSULATION, GROSS SQ. FT.	7,350	$12.10	$88,935.00	$11.22	$82,467.00
7	ASBESTOS ABATEMENT FOR ASBESTOS CONTAINING VINYL FLOORING & MASTICS, SQ. FT.	2,990	$2.20	$6,578.00	$2.04	$6,099.60
8	ASBESTOS ABATEMENT FOR ASBESTOS CONTAINING SHEETROCK WALLBOARD, SQ. FT.	4,500	$1.65	$7,425.00	$1.56	$7,020.00
9	ASBESTOS ABATEMENT FOR ASBESTOS CONTAINING SHEETROCK CEILING, SQ. FT.	350	$1.92	$672.00	$1.79	$626.50
10	ASBESTOS ABATEMENT FOR ASBESTOS CONTAMINATED PLASTER CEILING, SQ. FT.	2,530	$6.05	$15,307.00	$5.61	$14,193.30
11	ASBESTOS ABATEMENT FOR ASBESTOS CONTAMINATED CEILING TILES, SQ. FT.	2,450	$2.20	$5,390.00	$2.11	$5,182.00
12	ASBESTOS ABATEMENT FOR ASBESTOS CONTAMINATED SHEETROCK CEILINGS, SQ. FT.	350	$1.92	$672.00	$1.79	$626.50
13	ASBESTOS ABATEMENT FOR ASBESTOS CONTAINING PIPE LAGGING, LIN. FT.	1,874	$7.75	$14,523.50	$7.14	$13,380.36
14	ASBESTOS ABATEMENT FOR ASBESTOS CONTAMINATED WALL SHEETROCK AND JOINT COMPOUND, SQ. FT.	4,500	$1.92	$8,640.00	$1.79	$8,055.00
15	ASBESTOS ABATEMENT FOR ASBESTOS CONTAINING CERAMIC WALL TILE MASTICS IN TOILETS, SQ. FT.	200	$3.30	$660.00	$3.06	$612.00
16	ASBESTOS ABATEMENT FOR ASBESTOS CONTAINING BUILT-UP ROOFING, SQ. FT.	250	$2.75	$687.50	$2.50	$625.00
17	ASBESTOS ABATEMENT FOR MISCELLANEOUS ASBESTOS CONTAINING FLOOR LEVELING COMPOUNDS, SQ. FT.	2,000	$4.40	$8,800.00	$4.08	$8,160.00
18	ASSISTANCE TO GENERAL CONTRACTOR BY ASBESTOS AND LEAD-BASED PAINT ABATEMENT CONTRACTOR FOR MISCELLANEOUS ZONE 3 ASBESTOS AND LEAD-BASED PAINT ABATEMENT WORK, MANHOURS.	20	$393.30	$7,866.00	$350.00	$7,000.00
	TOTAL ALL UNIT PRICE ITEMS 1 THROUGH 18			$214,246.00		$200,547.26
	GRAND TOTAL ALL BID ITEMS AND UNIT PRICE ITEMS			$1,897,518.00		$2,435,330.26
	J:\g\roger\bidstuff\ wk4			See Note 1		See Note 2

Note 1. Bidder's mathematical error corrected The listed total was $1,897,527 00.
Note 2 Bidder's mathematical error corrected The listed total was $2,424,547 00.

PORT OF SAN FRANCISCO

Prepared By: ROGER
Checked By: T.L.
Date: Sept. 4, 1996

Project: FERRY BUILDING SEISMIC REPAIR STAGE II
Contract No.: 2594 **Project Manager: JOE ROGER**

		CICO-R&W, J.V. 99 THE EMBARCADERO SAN FRANCISCO, CA 94105 (415) 397-1336		CUEVAS & MANNION CONSTRUCTION 1641 HAWES STREET SAN FRANCISCO, CA 94124 (415) 822-3622		Bidder Name Address City, State, Zip Phone #		Bidder Name Address City, State, Zip Phone #	
Required Forms	Document #	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)	Yes (Y)	No (N)
Bid	00300	Y		Y					
Addenda Acknowledgment	00300	Y		Y					
Schedule of Bid Prices	00302	Y		Y					
Schedule of Unit Prices	00304	Y		Y					
Bid Bond	00411	Y		Y					
Experience & Financial Qualification	00420	Y		Y					
List of Subcontractors	00430	Y		Y					
Non-Collusion Certification	00481	Y		Y					
HRC Form 1		Y		Y					
HRC Schedule A (as applic, by 5pm)									
HRC Schedule L (as applic, by 5pm)									
HRC Form 2A		Y		Y					
HRC Form 2B		Y		Y					
Apprenticeship Program	00490	Y		Y					
Business Tax Reg Declaration	00491	Y		Y					
Highest General Prevailing Wage	00492	Y		Y					
Equal Opp Empl & Bus Practices: LD	00493	Y		Y					
MacBride Principles	00494	Y		Y					
Deemed Responsive by Engin & HRC (Y/N) ?		Y		N					
Total Bid ►		$1,897,518.00		$2,435,330.26					
PREFERENCES (as applicable):									
MBE	10%								
WBE	10%								
LBE	5%								
JV	5%								
JV	7.5%								
JV	10%								
Adjusted Bid ►		NA		NA					

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PORT OF SAN FRANCISCO

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Cable SFPORTCOMM
Writer

MEMORANDUM

September 19, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey (Lw For DB.
Executive Director

SUBJECT: Authorize Staff to issue a request for proposals for design of improvements for a new maintenance facility and, in the alternative, authorize the Executive Director in his discretion to seek authorization from the Board of Supervisors for use of a negotiated "best value" procurement methodology so as to be able to issue a request for proposals for a design build contract.

DIRECTOR'S RECOMMENDATION: Approve Resolution.

The Port's maintenance facility is currently located on the ground floor of a multi-story reinforced concrete building constructed in the 1920's known as Pier 46B. Although functional, Pier 46B was not designed with adequate office space or for the efficient operation of a modern maintenance facility.

Staff proposes to relocate the Port's maintenance facility.

A new maintenance facility will require utility upgrades, construction of partitions for shops, fire safety improvements and related renovation. Accordingly, staff seeks authorization to issue a request for proposals either for design services or for a design build contract. A new facility will improve operating efficiency by incorporating a new warehousing system and upgraded tooling.

THIS PRINT COVERS CALENDAR ITEM NO 6C

Because the maintenance facility project is limited in scope and does not involve technically complex work, staff is considering, and requests authorization to use, an alternative procurement methodology. This project appears to present an opportunity to use a best value evaluation and selection process. Specifically, staff would like the ability to consider issuing a request for proposals for a design build contract in which price could be negotiated and other factors, such as experience and qualifications, given substantial weight. Because this approach departs from normal public contracting procedures, including those required by Section 18.103 of the San Francisco Charter (Section 7.200 of the "old" Charter) and Section 6.1 of the San Francisco Administrative Code, the Executive Director requests approval to seek authorization from the Board of Supervisors to use this procurement methodology.

If the Executive Director determines this is not an appropriate project for a design build contract, staff will proceed with a traditional request for proposals for the design phase of the project. Thus, staff also requests authorization to proceed in the alternative with a request for proposals for design services for a new maintenance facility. Under both approaches, the Port will comply with applicable HRC requirements. Furthermore, staff will seek Commission authorization before entering into any contract.

Prepared by: Dennis P. Bouey, Executive Director

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-101

WHEREAS, Section B 3.581 of the City Charter empowers the Port Commission of San Francisco (the "Commission") with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, the Port's maintenance facility is currently located on the ground floor of a multi-story reinforced concrete building constructed in the 1920s that was not designed to provide adequate office space or efficient maintenance operations; and

WHEREAS, a new maintenance facility will improve operating efficiency by incorporating a new warehousing system and upgraded tooling; and

WHEREAS, staff proposes to relocate both the Port's maintenance facility and tenants housed in the adjacent facility, and to make improvements to future sites to be occupied by the Port's maintenance operation and its tenants (the "Maintenance Facility Project"); and

WHEREAS, the Maintenance Facility Project will require utility upgrades, construction of partitions for shops, fire safety improvements and related renovations; and

WHEREAS, staff seeks authorization to issue a request for proposals either for design services or for a design build contract since the Maintenance Facility Project is limited in scope and does not involve technically complex work;

WHEREAS, any request for proposals for a design build contract would be structured such that price could be negotiated and other factors, such as experience and qualifications, given substantial weight, which approach departs from contracting procedures, including those required by Section 18.103 of the San Francisco Charter (Section 7.200 of the "old" Charter) and Section 6.1 of the San Francisco Administrative Code; now, be it further

RESOLVED, that the Executive Director is hereby authorized and directed to seek authorization from the Board of Supervisors to use this procurement methodology provided that, if the Executive Director later determines that the Maintenance Facility Project is not an appropriate project for a design build contract, staff will proceed with a traditional request for proposals for the design phase of the Maintenance Facility Project; therefor, be it further

RESOLVED, that the Commission hereby authorizes the Executive Director to proceed with a request for proposals for design services; and be it further

RESOLVED, that the Executive Director is hereby authorized and directed to issue any other request for proposals for any other services as he may deem necessary or desirable to facilitate the Maintenance Facility Project

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 24, 1996.

_____
Secretary

PORT OF SAN FRANCISCO

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MEMORANDUM

September 11, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey
Executive Director

SUBJECT: **Approval of Contract Amendment for The Duffey Company, for additional analysis to complete the Environmental Impact Report for the Hyde Street Fishing Harbor.**

DIRECTOR'S RECOMMENDATION: APPROVE THE PROPOSED CONTRACT AMENDMENT.

In September 1994, the Commission approved a contract with the Duffey Company to prepare an environmental impact report (EIR) for the Hyde Street Fishing Harbor and new uses on Pier 45 in sheds A and C. Work on the EIR began in January 1995, and a Draft EIR was published in May of this year. During the public comment period on the Draft EIR over 300 pages of comments were received, with comments regarding water quality impacts, biological impacts, and the other issues. The Port also is studying new uses on Pier 45 with an Advisory Group which recommended analyzing additional fish processing space in sheds A and C in light of the success of Sheds B and D. Due to the extensive amount of public comments on the Draft EIR and the need to be inclusive of all potentially foreseen uses on Pier 45, some additional funds are necessary to complete the Final EIR.

THIS PRINT COVERS CALENDAR ITEM NO. 7A

The change in the scope of work to complete the Final EIR results in $30,000 of additional fees for the EIR consultant team, increasing the total contract amount to $288,598. Sufficient funds have been allocated to this project in the Capitol Plan to cover this amendment. The amount of the contract amendment dedicated to HRC certified minority or women owned firms is 57 percent.

Sharon Lee Polledri
Director, Planning & Development

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PORT OF SAN FRANCISCO
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-95

WHEREAS, The Hyde Street Fishing Harbor is a new facility proposed to provide berthing for the commercial fishing industry at Fisherman's Wharf; and

WHEREAS, The Port entered into a contract with the Duffey Company to prepare an Environmental Impact Report (EIR) for the Hyde Street Fishing Harbor; and

WHEREAS, The public had the opportunity to review and comment on the Draft EIR, expressing concerns regarding water quality, biological impacts, and other potential impacts; and

WHEREAS, All comments raised during the public comment period must be addressed in the Final EIR prior to certification of the EIR; and therefore, be it

RESOLVED, That the Port Commission approves amending the Environmental Impact Report contract for the Hyde Street Fishing Harbor and new uses on Pier 45 in Sheds A and C, for an additional $30,000 for the team led by the Duffey Company, increasing the total contract amount to $288,598; and authorizes the Executive Director or his designee to take all actions necessary to carry out this amendment.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 24, 1996.

_____
Secretary

PORT OF SAN FRANCISCO

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Writer

MEMORANDUM

September 24, 1996

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Frankie G. Lee, Vice President
Hon. Preston Cook
Hon. James Herman
Hon. Denise McCarthy

FROM: Dennis P. Bouey (W For DB.
Executive Director

SUBJECT: Resolution Designating the Executive Director as the Port Commission's Official Spokesperson to the Investment Community

DIRECTOR'S RECOMMENDATION: AUTHORIZE AND DESIGNATE THE EXECUTIVE DIRECTOR AS PORT COMMISSION'S OFFICIAL SPOKESPERSON TO THE INVESTMENT COMMUNITY

BACKGROUND

In June 1994, the Port Commission issued its Revenue Refunding Bonds, Series 1994. Since such time, the Securities & Exchange Commission has reaffirmed that issuers have liability with respect to statements made even after the bonds have been sold to investors. Such liability extends to public officials as well as to their employees and can arise from comments made to the press, the rating agencies, investment bankers, etc.

An investor or potential investor may be influenced to buy or sell the Port's bonds based on comments that are made publicly by Port officials. In addition to influencing an investor's decision to buy/sell, any misleading or omitted statement could also impact the buy/sell price in such a way that the true value or true risk of the investment is not properly evaluated thereby resulting in a monetary loss to the investor.

THIS PRINT COVERS CALENDAR ITEM NO. 8A

In consultation with the City Attorney's office regarding this manner, all City departments and commissions are advised to publicly designate their directors as the official spokesperson of their respective departments or agencies to be responsible for the dissemination of information to the investment community. By publicly designating an official spokesperson, the investment community will know to rely on statements issued only by the Port's official spokesperson.

STAFF RECOMMENDATION

Staff recommends that the Commission designate an official spokesperson who has personal knowledge of, or access to, accurate information with respect to the Port's bonds and its operations. The designated spokesperson will participate in the review and dissemination of all statements made regarding matters which a bondholder might consider important and which could be expected to reach a public audience. In 1994, the Port prepared and presented to investors an Official Statement that represented the Port's business and financial situation at the time. Statements released by the official spokesperson must not only represent fair and accurate information but must also be consistent with the information presented in the Port's Official Statement.

Authorization is requested to designate Dennis Bouey, the Executive Director, as the Port's official spokesperson and that announcements of such appointment be made directly to the rating agencies, *The Bond Buyer* (the municipal bond trade publication), *The Wall Street Journal* and *Munifacts News Service* (the wire service most used by the municipal bond market).

Prepared by: Benjamin A. Kutnick
Director, Administration

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 96-99

WHEREAS, the Port Commission of the City and County of San Francisco (the "Commission") has the authority pursuant to the City & County of San Francisco Charter, Article IX, to publicly issue debt or revenue bonds and to enter into lease financing arrangements ("Port Bonds"); and

WHEREAS, the Commission has previously issued $53,610,000 Revenue Refunding Bonds, Series 1994 which are outstanding and held by a variety of investors; and,

WHEREAS, the Commission wishes to designate an official spokesperson to provide information regarding the Port to the bond investment community as appropriate from time to time; now, therefor, be it

RESOLVED, that the Executive Director is the official spokesperson of the Commission regarding any information that may relate to or affect outstanding Port Bonds; and be it further

RESOLVED, that the Executive Director is hereby directed to notify those rating agencies rating Port Bonds that the Commission has appointed him as the official spokesperson for bond-related matters; and, be it further

RESOLVED, that the Executive Director is hereby directed to notify the bond investment community of the Port's official spokesperson for bond-related matters via press release to the local and financial press, including, without limitation, *The Bond Buyer*, *The Wall Street Journal* and the *Munifacts News Service*; and be it further

RESOLVED, that the Executive Director is hereby authorized to take any other steps that the Executive Director deems advisable to inform the general community of the Port's official spokesperson for bond-related matters.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 24, 1996.

_____
Secretary

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CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

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MINUTES OF THE MEETING
SEPTEMBER 24, 1996

1. ROLL CALL

The meeting was called to order by Commission President Michael Hardeman at 4:05 p.m. The following Commissioners were present: Michael Hardeman, Frankie Lee, Preston Cook and Denise McCarthy. Commissioner James Herman was not present.

2. APPROVAL OF MINUTES - September 10, 1996

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

At 4:06 p.m., the Commission Secretary announced that the Commission will withdraw to executive session to discuss the following:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - *This session is closed to any non-City/Port representative.**

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Dennis P. Bouey, Executive Director
*San Francisco Giants Representative: Larry Baer, Executive Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both
An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

At 4:45 p.m., Commissioners Hardeman, Lee, Cook and McCarthy returned from executive session and convened in public session.

ACTION: Commissioner Lee moved approval to not disclose any information discussed in the executive session; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor.

Item 6A was heard next.

6. FACILITIES & OPERATIONS

A. Public Hearing on the intention of the Port of San Francisco to issue permits to

relocate and install J.C. Decaux Public Service/Advertising Kiosks from Hyde and Jefferson Streets to mid-block Jefferson between Hyde and Leavenworth and from Mason and Jefferson Streets to north side, mid-block Jefferson between Mason and Taylor. (Resolution No. 96-97)

Mr. Bouey stated that two locations for kiosks have yet to be designated - Jefferson & Mason and Jefferson & Hyde Street. There are some concerns regarding one or both of the proposed locations and suggested that he will reserve his comments at the conclusion of the speakers' remarks.

The following individuals opposed the proposed location of the kiosks:

1) Nunzio Alioto of Alioto Fish Company stated that both locations will impede the flow of traffic. They plan to develop the area in the future and believe that this would impede that development.

2) Howard Lazar, representing the Street Artists, stated that he opposes the locations because it will seriously impede traffic flow. Putting the kiosks in the proposed locations will pose a problem as the card hustlers will use them to conduct their activity.

3) Christopher Martin of the Cannery concurred with Mr. Alioto and Mr. Lazar. He's concerned about the Jefferson Street location because it would impede access and encroach the sidewalk to less than 10 feet. He suggested other alternatives be studied.

4) Kathy Hallinan, Street Artist, concurred with the previous speakers comments and reiterated Mr. Lazar's concerns about safety in the area.

5) Al Baccari of the Fisherman's Wharf Association stated that they understand the necessity of finding locations so that the contract can move forward. The economic vitality of the area, however, will be impacted if these kiosks are placed in the proposed locations. He wanted to ensure that what is done balances and does not disrupt the construction of the F-Line. He urged the Commission to give this serious thought before voting. He recommended that the planners and engineers look at this issue closely as construction of the F-Line moves forward.

Mr. Bouey remarked that the City is in a position to move forward with the installation of more public toilets. However, before that can be accomplished, the final piece needs to fall into place and that is the installation of the final two kiosks. If Mr. Baccari, Mr. Alioto and Mr. Lazar are willing, staff has had a conversation with Mr. Francois Nion of J.C. Decaux in which he has agreed, that if the Commission issues the permits, he would be willing to not build next to the Expo property as staff has already identified an alternate site east of that proposed location. In the alternative, staff requests the permit for the Hyde Street location. Mr. Bouey then asked Mr. Nion to hold off construction to give Port staff an opportunity to sit down with Mr. Lazar and Mr. Nion to see if an alternative location can be worked out. He

asked Mr. Baccari and Mr. Nion if this was acceptable. Mr. Baccari and Mr. Nion both agreed. Mr. Baccari announced that this also meets Mr. Alioto's, Mr. Martin's and Mr. Lazar's approval.

Commissioner Hardeman mentioned that he received a letter from Mr. Larry Mazzola regarding prevailing wages. He inquired whether Mr. Nion has been contacted by Mr. Mazzola regarding prevailing wages and if any City agency monitored their company regarding prevailing wages. Mr. Nion replied to the negative. Commissioner Hardeman noted that he is not prepared to vote on this item until the prevailing wage issue has been resolved. Mr. Bouey stated that the Department of Public Works (DPW) manages this contract. If there is a party that believes that Decaux is not paying prevailing wage, it would be their benefit to ask DPW for certified payrolls to make that determination.

Mr. Harry O'Brien, representing J.C. Decaux, stated that he has not had the opportunity to see the letter but assures the Commission that they would be happy to work with DPW to resolve this issue and respond to any inquiries. It is Decaux's belief that they are in compliance with the contract. They will follow up and ensure that answers are provided to Mr. Mazzola.

Commissioner Lee inquired who the parties are to the contract. Ms. Julie Van Nostern, Port's Legal Counsel, replied that the Port is a signatory to this agreement and DPW is the agency monitoring the contract. Commissioner Lee inquired if DPW has received any allegation that Decaux is not complying with the prevailing wage. Ms. Julie Van Nostern replied that she or her office is not aware of any allegations. Commissioner Lee requested Decaux for a verbal promise to ensure that the prevailing wage issue is adhered to. Mr. Harry O'Brien assured the Commission that the work to be done pursuant to this permit will be done with prevailing wage labor as has the other construction work that has been done.

Commissioner Cook commented that he supports this resolution. He is satisfied that a proper location for the kiosks will be identified, especially with the concurrence of the Tenant Organization, Street Artists and Art Commission. He stated that it is important to approve this to get the discussion under way and get the whole process going. Another stall at this time is ineffective and inappropriate.

ACTION: Commissioner Cook moved approval; Commissioner Lee seconded the motion. Three of the Commissioners were in favor; Commissioner Hardeman cast the dissenting vote. The resolution was adopted.

Commissioner Lee announced that he has to leave the meeting to present a plaque to Sun Princess Cruise Line.

3. EXECUTIVE

A. Executive Director's Report:

(1) Wednesday, September 25 at 5:30 p.m., there will be a SPUR meeting to discuss the Waterfront Plan.

(2) Thursday & Friday, Sept. 26 & 27, the Seafood Convention will take place at Moscone Center.

(3) Tuesday, October 1 at noon, there will be a presentation to the Pier 52 Advisory group regarding the Pier 52 Boat Launch project.

(4) October 5 & 6, Festa Italiana will be held at Pier 45.

(5) October 11 through 15, Fleet Week will be celebrated.

4. **LEGISLATIVE**

5. **TENANT & MARITIME SERVICES**

A. Approval of the Serpac Consortium Marine Terminal Agreements at Pier 94/96. (Resolution No. 96-98)

Mr. Bouey stated that the first vessel will arrive on October 2nd. The contract is for a five year term, with the ability of either party to terminate each year. The wharfage and dockage fees are based on the combined totals of the three lines. They will nominate Piers 94/96 as their published port of call and the Port gave them a one month free of wharfage as an early signing bonus for signing a letter of intent prior to August 31, 1996. The Port expects to receive approximately $400,000 per year.

ACTION: Commissioner McCarthy moved approval; Commissioner Cook seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

B. Amendment to Resolution No. 96-33 for Authorization to Issue Amendments to the Request for Proposals document ("RFP") to lease Mission Rock Resort Restaurant located at 817 Terry Francois Boulevard. (Amended Resolution No. 96-33)

Mr. Bouey stated that this RFP was issued once before but the response was less than staff has hoped for. The Commission authorized the re-issuance of this RFP and staff has spent extensive time in conferences with proposed bidders. To date, sixty-five packages have been taken out. Staff is hopeful that these bidders will constitute a more potent force than the last time. Staff has received a great number of comments in which the Port has to wrestle with in terms of protecting the Port but at the same time creating a vehicle that will encourage the greatest amount of people to bid on the site. As such, staff has made several amendments which are included in the agenda package.

ACTION: Commissioner Cook moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the

resolution was adopted.

6. FACILITIES & OPERATIONS

B. Authorization to award Construction Contract No. 2594, "Ferry Building Seismic Repair Stage II," to CICO-R&W, a Joint Venture. (Resolution No. 96-100)

Mr. Bouey stated that the Commission previously authorized staff to bid this contract. The low bid is approximately $1.9 million. This contract is to construct new concrete shearwalls, perform hazardous materials abatement and to upgrade certain accessibility requirements as required by the Government Code. He added that between 39% of this contract will go to MBE/WBE firms.

Commissioner McCarthy inquired if the contract exceeds the original FEMA funding. Mr. Bouey stated that the contract exceeds FEMA funding by about $800,000 to $900,000. He added that the Commission previously authorized expenditures for these types of repairs anywhere in the waterfront. Staff, to date, has been able to negotiate with FEMA to cover 99.8% of all repair costs. That fund more than covers the additional $800,000-$900,000 but staff is hoping to be able to negotiate with FEMA for the entire amount; however, there is a risk that the Port may have to expend $800,000-$900,000 of its own fund.

ACTION: Commissioner Cook moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

C. Authorize staff to issue a Request for Proposals (RFP) for design of improvements for a new maintenance facility and, in the alternative, authorize the Executive Director in his discretion to seek authorization from the Board of Supervisors for use of a negotiated "best value" procurement methodology so as to be able to issue a Request for Proposals for a design/build contract. (Resolution No. 96-101)

Mr. Bouey stated that as the Port gets closer to the Waterfont Plan becoming a reality, staff is looking at various sites; one with great potential is Pier 46. This may or may not be the home of the Giants but staff feels that this is a superlative site for development. Currently there are a number of tenants who staff has informed will be relocated to other venues at the waterfront. Pier 46 is also home to our maintenance facility, which the Port also desires to relocate elsewhere on the waterfront. Traditionally, a design contract is bid and then a construction contract is bid. Although a decision has not been made, in the alternative, staff is considering bidding this as a design/build contract. This contract would, in effect, be awarded based on a criteria other than price and as the design progresses, a price for the construction would be negotiated. Because this is a departure from the City's Administrative Code, staff would have to seek the Board of Supervisors' approval.

ACTION: Commissioner Cook moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the

resolution was adopted.

7. PLANNING & DEVELOPMENT

A. Approval of contract amendment for the Duffey Company for additional analysis to complete the Environmental Impact Report for the Hyde Street Fishing Harbor. (Resolution No. 96-95)

Mr. Bouey stated that the hearing for the Draft EIR took place several months ago. Due to the amount of public testimony and number of comments that must be responded to, the contract will cost more than anticipated and as such staff needs to amend the contract with Duffey Company. Their contract amount is $288,000. Staff is asking for $30,000 amendment. He noted that 57% of this contract will go to MBE/WBE firms.

ACTION: Commissioner McCarthy moved approval; Commissioner Cook seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

8. ADMINISTRATION

A. Approval of resolution designating the Executive Director to serve as the Port Commission's Official Spokesperson to the Investment Community. (Resolution No. 96-99)

Mr. Bouey stated that this resolution shields the Commission and other Port staff from liability of lawsuits. Since the Port last sold its bonds, there has been a change in SEC Rules and Regulations affecting comments made by Port staff. If a buyer relied on a comment made by a Commissioner or someone in a position of responsibility at the Port to buy or sell bonds, and that information turned out to be wrong, that individual and the Port will be sued. By notifying the SEC that there is one official spokesperson for the Port, this should shield Commissioners from that liability. He also mentioned that the City Attorney has advised all departments that sell bonds that their executive director be named as the official spokesperson for this purpose.

Ms. Van Nostern stated that while the Port is designating a designated spokesperson for the Port, the Commissioners have the responsibility that what they say is truthful, complete and correct. This does not totally take the realm of the Commission's responsibility.

ACTION: Commissioner Cook moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; the resolution was adopted.

9. NEW BUSINESS/PUBLIC COMMENT

Clarisse Lacau from Pier 50 inquired how often the Commission meets. Mr. Bouey replied that the Commission meets every second and fourth Tuesdays of the month, except in November and December when the Commission meets once a month.

The meeting was adjourned at 5:35 p.m.